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Chief Clerk of the House

FILED MAR - 8 2007

By: Guillen

H.B. No. 3068

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain municipalities and counties to
regulate subdivisions near an international border.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.012, Local Government Code, is
amended by amending Subsections (a), (c), (d), (e), (f), (h), and
(i) and adding Subsections (j) and (k) to read as follows:

(a) Except as provided by Subsection (c), (d), or (j)
~~[Subsection (e)]~~, an entity described by Subsection (b) may not
serve or connect any land with water, sewer, electricity, gas, or
other utility service unless the entity has been presented with or
otherwise holds a certificate applicable to the land issued under
Section 212.0115.

(c) An entity described by Subsection (b) may serve or
connect land with water, sewer, electricity, gas, or other utility
service regardless of whether the entity is presented with or
otherwise holds a certificate applicable to the land issued under
Section 212.0115 if:

(1) the land is covered by a development plat approved
under Subchapter B or under an ordinance or rule relating to the
development plat;

(2) the land was first served or connected with
service by an entity described by Subsection (b)(1), (b)(2), or
(b)(3) before September 1, 1987; or

1 (3) the land was first served or connected with
2 service by an entity described by Subsection (b)(4), (b)(5), or
3 (b)(6) before September 1, 1989~~[, or~~

4 ~~[(4) the municipal authority responsible for~~
5 ~~approving plats issues a certificate stating that:~~

6 ~~[(A) the land:~~

7 ~~[(i) was sold or conveyed to the person~~
8 ~~requesting service by any means of conveyance, including a contract~~
9 ~~for deed or executory contract, before:~~

10 ~~[(a) September 1, 1995, in a county~~
11 ~~defined under Section 232.022(a)(1), or~~

12 ~~[(b) September 1, 2005, in a county~~
13 ~~defined under Section 232.022(a)(2),~~

14 ~~[(ii) is located in a subdivision in which~~
15 ~~the entity has previously provided service,~~

16 ~~[(iii) is located outside the limits of the~~
17 ~~municipality,~~

18 ~~[(iv) is located in a county to which~~
19 ~~Subchapter B, Chapter 232, applies, and~~

20 ~~[(v) is the site of construction of a~~
21 ~~residence, evidenced by at least the existence of a completed~~
22 ~~foundation, that was begun on or before:~~

23 ~~[(a) May 1, 1997, in a county defined~~
24 ~~under Section 232.022(a)(1), or~~

25 ~~[(b) September 1, 2005, in a county~~
26 ~~defined under Section 232.022(a)(2), or~~

27 ~~[(B) the land was not subdivided after September~~

1 ~~1, 1995, in a county defined under Section 232.022(a)(1), or~~
2 ~~September 1, 2005, in a county defined under Section 232.022(a)(2),~~
3 ~~and:~~

4 ~~[(i) water service is available within 750~~
5 ~~feet of the subdivided land, or~~

6 ~~[(ii) water service is available more than~~
7 ~~750 feet from the subdivided land and the extension of water service~~
8 ~~to the land may be feasible, subject to a final determination by the~~
9 ~~water service provider].~~

10 (d) In a county to which Subchapter B, Chapter 232, applies,
11 an entity described by Subsection (b) may serve or connect land with
12 water, sewer, electricity, gas, or other utility service that is
13 located in the extraterritorial jurisdiction of a municipality
14 regardless of whether the entity is presented with or otherwise
15 holds a certificate applicable to the land issued under Section
16 212.0115, if the municipal authority responsible for approving
17 plats issues a certificate stating that:

18 (1) the subdivided land:

19 (A) was sold or conveyed by a subdivider or
20 developer by any means of conveyance, including a contract for deed
21 or executory contract, before:

22 (i) September 1, 1995, in a county defined
23 under Section 232.022(a)(1);

24 (ii) September 1, 1999, in a county defined
25 under Section 232.022(a)(1) if, on August 31, 1999, the subdivided
26 land was located in the extraterritorial jurisdiction of a
27 municipality as determined by Chapter 42; or

1 (iii) September 1, 2005, in a county
2 defined under Section 232.022(a)(2);

3 (B) has not been subdivided after September 1,
4 1995, September 1, 1999, or September 1, 2005, as applicable under
5 Paragraph (A);

6 (C) is the site of construction of a residence,
7 evidenced by at least the existence of a completed foundation, that
8 was begun on or before:

9 (i) May 1, 2003, in a county defined under
10 Section 232.022(a)(1); or

11 (ii) September 1, 2005, in a county defined
12 under Section 232.022(a)(2); and

13 (D) has had adequate sewer services installed to
14 service the lot or dwelling; or

15 (2) the subdivided land is a lot of record as defined
16 by Section 232.021(6-a) that is located in a county defined by
17 Section 232.022(a)(1) and has adequate sewer services installed
18 that are fully operable to service the lot or dwelling.

19 (e) An entity described by Subsection (b) may provide
20 utility service to land described by Subsection (d)(1) or (2)
21 [~~Subsection (c)(4)(A)~~] only if the person requesting service:

22 (1) is not the land's subdivider or developer or the
23 subdivider's or developer's agent; and

24 (2) provides to the entity a certificate described by
25 Subsection (d) [~~(c)(4)(A)~~].

26 (f) [~~(e)~~] A person requesting service may obtain a
27 certificate under Subsection (d)(1) or (2) [~~Subsection (c)(4)(A)~~]

1 only if the person is the owner or purchaser of the subdivided land
2 and provides to the municipal authority responsible for approving
3 plats documentation containing ~~[either]~~:

4 (1) a copy of the means of conveyance or other
5 documents that show that the land was sold or conveyed by a
6 subdivider or developer ~~[to the person requesting service]~~ before
7 September 1, 1995, before September 1, 1999, or before September 1,
8 2005, as applicable under Subsection (d) ~~[, and a notarized~~
9 ~~affidavit by that person that states that construction of a~~
10 ~~residence on the land, evidenced by at least the existence of a~~
11 ~~completed foundation, was begun on or before May 1, 1997, or on or~~
12 ~~before September 1, 2005, as applicable]; [or]~~

13 (2) for a certificate issued under Subsection (d)(1),
14 a notarized affidavit by the person requesting service that states
15 that ~~[the property was sold or conveyed to that person before~~
16 ~~September 1, 1995, or before September 1, 2005, as applicable, and~~
17 ~~that]~~ construction of a residence on the land, evidenced by at least
18 the existence of a completed foundation, was begun on or before May
19 1, 2003, in a county defined by Section 232.022(a)(1) or September
20 1, 2005, in a county defined by Section 232.022(a)(2), and the
21 request for utility connection or service is to connect or serve a
22 residence described by Subsection (d)(1)(C);

23 (3) a notarized affidavit by the person requesting
24 service that states that the subdivided land has not been further
25 subdivided after September 1, 1995, September 1, 1999, or September
26 1, 1989, as applicable under Subsection (d); and

27 (4) evidence that adequate sewer service or facilities

1 have been installed and are fully operable to service the lot or
2 dwelling from an entity described by Subsection (b) or the
3 authorized agent responsible for the licensing or permitting of
4 on-site sewage facilities under Chapter 366, Health and Safety
5 Code. [May 1, 1997, or on or before September 1, 2005, as
6 applicable.

7 ~~[(f) A person requesting service may obtain a certificate~~
8 ~~under Subsection (c)(4)(B) only if the person provides to the~~
9 ~~municipal authority responsible for approving plats an affidavit~~
10 ~~that states that the property was not sold or conveyed to that~~
11 ~~person from a subdivider or the subdivider's agent after September~~
12 ~~1, 1995, or after September 1, 2005, as applicable.]~~

13 (h) This section may not be construed to abrogate any civil
14 or criminal proceeding or prosecution or to waive any penalty
15 against a subdivider or developer for a violation of a state or
16 local law, regardless of the date on which the violation occurred.

17 (i) In this section:

18 (1) "Developer" has the meaning assigned by Section
19 232.021.

20 (2) "Foundation" means the lowest division of a
21 residence, usually consisting of a masonry slab or a pier and beam
22 structure, that is partly or wholly below the surface of the ground
23 and on which the residential structure rests.

24 (3) [+2+] "Subdivider" has the meaning assigned by
25 Section 232.021.

26 (j) Except as provided by Subsection (k), this section does
27 not prohibit a water or sewer utility from providing in a county

1 defined by Section 232.022(a)(1) water or sewer utility connection
2 or service to a residential dwelling that:

3 (1) is provided water or wastewater facilities under
4 or in conjunction with a federal or state funding program designed
5 to address inadequate water or wastewater facilities in colonias or
6 to residential lots located in a county described by Section
7 232.022(a)(1);

8 (2) is an existing dwelling identified as an eligible
9 recipient for funding by the funding agency providing adequate
10 water and wastewater facilities or improvements;

11 (3) when connected, will comply with the minimum state
12 standards for both water and sewer facilities and as prescribed by
13 the model subdivision rules adopted under Section 16.343, Water
14 Code; and

15 (4) is located in a project for which the municipality
16 with jurisdiction over the project or the approval of plats within
17 the project area has approved the improvement project by order,
18 resolution, or interlocal agreement under Chapter 791, Government
19 Code.

20 (k) A utility may not serve any subdivided land with water
21 utility connection or service under Subsection (j) unless the
22 entity receives a determination that adequate sewer services have
23 been installed to service the lot or dwelling from the municipal
24 authority responsible for approving plats, an entity described by
25 Subsection (b), or the authorized agent responsible for the
26 licensing or permitting of on-site sewage facilities pursuant to
27 Chapter 366, Health and Safety Code.

1 SECTION 2. Section 232.021, Local Government Code, is
2 amended by amending Subdivision (2) and adding Subdivisions (2-a),
3 (2-b), and (6-a) to read as follows:

4 (2) "Common promotional plan" means any plan or scheme
5 of operation undertaken by a single subdivider or developer or a
6 group of subdividers or developers acting in concert, either
7 personally or through an agent, to offer for sale or lease lots when
8 the land is:

9 (A) contiguous or part of the same area of land;
10 or

11 (B) known, designated, or advertised as a common
12 unit or by a common name.

13 (2-a) "Develop" means a structural improvement or
14 man-made change to a lot intended for residential use undertaken to
15 improve, enhance, or otherwise make suitable real property for
16 purposes of sale, resale, or lease.

17 (2-b) "Developer" means a person who owns any interest
18 in real property and directly or indirectly develops real property
19 in the ordinary course of business or as part of a common
20 promotional plan.

21 (6-a) "Lot of record" means:

22 (A) a lot, the boundaries of which were
23 established by a plat recorded in the office of the county clerk
24 before September 1, 1989, that has not been subdivided after
25 September 1, 1989; or

26 (B) a lot, the boundaries of which were
27 established by a metes and bounds description in a deed of

1 conveyance, a contract of sale, or other executory contract to
2 convey real property that has been legally executed and recorded in
3 the office of the county clerk before September 1, 1989, that has
4 not been subdivided after September 1, 1989.

5 SECTION 3. Section 232.024(b), Local Government Code, is
6 amended to read as follows:

7 (b) If any part of a plat applies to land intended for
8 residential housing and any part of that land lies in a floodplain,
9 the commissioners court shall not approve the plat unless:

10 (1) the subdivision is developed in compliance with
11 the minimum requirements of the National Flood Insurance Program
12 and local regulations or orders adopted under Section 16.315, Water
13 Code; and

14 (2) the plat evidences a restrictive covenant
15 prohibiting [as required by this subsection. The restrictive
16 covenant shall prohibit] the construction of residential housing in
17 any area of the subdivision that is in a floodplain unless the
18 housing is developed in compliance with the minimum requirements of
19 [qualifies for insurance under] the National Flood Insurance
20 Program and local regulations or orders adopted under Section
21 16.315, Water Code [Act of 1968 (42 U.S.C. Sections 4001 through
22 4127)].

23 SECTION 4. Section 232.028(b), Local Government Code, is
24 amended to read as follows:

25 (b) On the commissioners court's own motion or on the
26 written request of a subdivider, an owner or resident of a lot in a
27 subdivision, or an entity that provides a utility service, the

1 commissioners court shall make the following determinations
2 regarding the land in which the entity or commissioners court is
3 interested that is located within the jurisdiction of the county:

4 (1) whether a plat has been prepared and whether it has
5 been reviewed and approved by the commissioners court;

6 (2) whether water service facilities have been
7 constructed or installed to service the lot or subdivision under
8 Section 232.023 and are fully operable;

9 (3) whether sewer service facilities have been
10 constructed or installed to service the lot or subdivision under
11 Section 232.023 and are fully operable, or if septic systems are
12 used, whether the lot is served by a permitted on-site sewage
13 facility or lots in the subdivision can be adequately and legally
14 served by septic systems under Section 232.023; and

15 (4) whether electrical and gas facilities, if
16 available, have been constructed or installed to service the lot or
17 subdivision under Section 232.023.

18 SECTION 5. Section 232.029, Local Government Code, is
19 amended by amending Subsections (b), (c), (d), (e), and (i) and
20 adding Subsections (k) and (l) to read as follows:

21 (b) Except as provided by Subsection (c) or Section
22 232.037(c), a utility may not serve or connect any subdivided land
23 with electricity or gas unless the entity receives a determination
24 from the county commissioners court under Sections 232.028(b)(2)
25 and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer
26 services have been installed to service the lot or subdivision.

27 (c) An electric, gas, water, or sewer service utility may

1 serve or connect subdivided land with water, sewer, electricity,
2 gas, or other utility service regardless of whether the utility
3 receives a certificate issued by the commissioners court under
4 Section 232.028(a) or receives a determination from the
5 commissioners court under Section 232.028(b) if the utility is
6 provided with a certificate issued by the commissioners court that
7 states that:

8 (1) the subdivided land:

9 (A) was sold or conveyed by a subdivider or
10 developer [~~to the person requesting service~~] by any means of
11 conveyance, including a contract for deed or executory contract:

12 (i) before September 1, 1995; or

13 (ii) before September 1, 1999, if the
14 subdivided land on August 31, 1999, was located in the
15 extraterritorial jurisdiction of a municipality as determined by
16 Chapter 42;

17 (B) has not been subdivided after September 1,
18 1995, or September 1, 1999, as applicable under Paragraph (A) [~~is~~
19 ~~located in a subdivision in which the utility has previously~~
20 ~~provided service~~]; and

21 (C) is the site of construction of a residence,
22 evidenced by at least the existence of a completed foundation, that
23 was begun[+

24 [~~(i) on or before May 1, 1997, or~~

25 [~~(ii)~~] on or before May 1, 2003; and

26 (D) has had adequate sewer services installed to
27 service the lot or dwelling; or

1 (2) the subdivided land is a lot of record and has
2 adequate sewer services installed that are fully operable to
3 service the lot or dwelling~~[, if the subdivided land on August 31,~~
4 ~~1999, was located in the extraterritorial jurisdiction of a~~
5 ~~municipality as determined by Chapter 42, or~~

6 ~~[(2) the land was not subdivided after September 1,~~
7 ~~1995, and:~~

8 ~~[(A) water service is available within 750 feet~~
9 ~~of the subdivided land, or~~

10 ~~[(B) water service is available more than 750~~
11 ~~feet from the subdivided land and the extension of water service to~~
12 ~~the land may be feasible, subject to a final determination by the~~
13 ~~water service provider].~~

14 (d) A utility may provide utility service to subdivided land
15 described by Subsection (c)(1) or (2) only if the person requesting
16 service:

17 (1) is not the land's subdivider or developer or the
18 subdivider's or developer's agent; and

19 (2) provides to the utility a certificate described by
20 Subsection (c) ~~[(c)(1)]~~.

21 (e) A person requesting service may obtain a certificate
22 under Subsection (c)(1) or (2) only if the person is the owner or
23 purchaser of the subdivided land and provides to the commissioners
24 court documentation containing ~~[either]~~:

25 (1) ~~[documentation containing:~~

26 ~~[(A)]~~ a copy of the means of conveyance or other
27 documents that show that the land was sold or conveyed by a

1 subdivider or developer before September 1, 1995, before September
2 1, 1999, or before September 1, 1989, as applicable under
3 Subsection (c);

4 (2) ~~[to the person requesting service.~~

5 ~~[(i) before September 1, 1995, or~~

6 ~~[(ii) before September 1, 1999, if the~~
7 ~~subdivided land on August 31, 1999, was located in the~~
8 ~~extraterritorial jurisdiction of a municipality as determined by~~
9 ~~Chapter 42, and~~

10 ~~[(B)]~~ a notarized affidavit by that person
11 requesting service under Subsection (c)(1) that states that
12 construction of a residence on the land, evidenced by at least the
13 existence of a completed foundation, was begun[+]

14 ~~[(i) on or before May 1, 1997, or~~

15 ~~[(ii)]~~ on or before May 1, 2003, and the
16 request for utility connection or service is to connect or serve a
17 residence described by Subsection (c)(1)(C);

18 (3) ~~[, if the subdivided land on August 31, 1999, was~~
19 ~~located in the extraterritorial jurisdiction of a municipality as~~
20 ~~determined by Chapter 42, or~~

21 ~~[(2)]~~ a notarized affidavit by the person requesting
22 service that states that the subdivided land has not been further
23 subdivided after[+]

24 ~~[(A) the property was sold or conveyed to that~~
25 ~~person.~~

26 ~~[(i) before]~~ September 1, 1995, ~~[+or~~

27 ~~[(ii) before]~~ September 1, 1999, or

1 September 1, 1989, as applicable under Subsection (c); and

2 (4) evidence that adequate sewer service or facilities
3 have been installed and are fully operable to service the lot or
4 dwelling from an entity described by Section 232.021(14) or the
5 authorized agent responsible for the licensing or permitting of
6 on-site sewage facilities under Chapter 366, Health and Safety Code
7 ~~[if the subdivided land on August 31, 1999, was located in the~~
8 ~~extraterritorial jurisdiction of a municipality as determined by~~
9 ~~Chapter 42, and~~

10 ~~[(B) construction of a residence on the land,~~
11 ~~evidenced by at least the existence of a completed foundation, was~~
12 ~~begun.~~

13 ~~[(i) on or before May 1, 1997, or~~

14 ~~[(ii) on or before May 1, 2003, if the~~
15 ~~subdivided land on August 31, 1999, was located in the~~
16 ~~extraterritorial jurisdiction of a municipality as determined by~~
17 ~~Chapter 42].~~

18 (i) The prohibition established by this section shall not
19 prohibit a water, sewer, [an] electric, or gas utility from
20 providing water, sewer, electric, or gas utility connection or
21 service to a lot [being] sold, conveyed, or purchased through a
22 contract for deed or executory contract or other device by a
23 subdivider or developer prior to July 1, 1995, or September 1, 1999,
24 if on August 31, 1999, the subdivided land was located in the
25 extraterritorial jurisdiction of a municipality that has adequate
26 sewer services installed that are fully operable to service the lot
27 ~~[which is located within a subdivision where the utility has~~

1 ~~previously established service]~~ and was subdivided by a plat
2 approved prior to September 1, 1989.

3 (k) Except as provided by Subsection (1), this section does
4 not prohibit a water or sewer utility from providing water or sewer
5 utility connection or service to a residential dwelling that:

6 (1) is provided water or wastewater facilities under
7 or in conjunction with a federal or state funding program designed
8 to address inadequate water or wastewater facilities in colonias or
9 to residential lots located in a county described by Section
10 232.022(a)(1);

11 (2) is an existing dwelling identified as an eligible
12 recipient for funding by the funding agency providing adequate
13 water and wastewater facilities or improvements;

14 (3) when connected, will comply with the minimum state
15 standards for both water and sewer facilities and as prescribed by
16 the model subdivision rules adopted under Section 16.343, Water
17 Code; and

18 (4) is located in a project for which the municipality
19 with jurisdiction over the project or the approval of plats within
20 the project area has approved the improvement project by order,
21 resolution, or interlocal agreement under Chapter 791, Government
22 Code, if applicable.

23 (1) A utility may not serve any subdivided land with water
24 utility connection or service under Subsection (k) unless the
25 entity receives a determination from the county commissioners court
26 under Section 232.028(b)(3) that adequate sewer services have been
27 installed to service the lot or dwelling.

1 SECTION 6. Sections 232.031(a) and (b), Local Government
2 Code, are amended to read as follows:

3 (a) Except as provided by Subsection (d), a subdivider or
4 developer may not sell or lease land in a subdivision first platted
5 or replatted after July 1, 1995, unless the subdivision plat is
6 approved by the commissioners court in accordance with Section
7 232.024.

8 (b) Not later than the 30th day after the date a lot is sold,
9 a subdivider or developer shall record with the county clerk all
10 sales contracts, including the attached disclosure statement
11 required by Section 232.033, leases, and any other documents that
12 convey an interest in the subdivided land.

13 SECTION 7. Sections 232.035(a) and (b), Local Government
14 Code, are amended to read as follows:

15 (a) A subdivider or developer or an agent of a subdivider or
16 developer may not cause, suffer, allow, or permit a lot to be sold
17 in a subdivision if the subdivision has not been platted as required
18 by this subchapter.

19 (b) Notwithstanding any other remedy at law or equity, a
20 subdivider or developer or an agent of a subdivider or developer may
21 not cause, suffer, allow, or permit any part of a subdivision over
22 which the subdivider or developer or an agent of the subdivider or
23 developer has control, or a right of ingress and egress, to become a
24 public health nuisance as defined by Section 341.011, Health and
25 Safety Code.

26 SECTION 8. Section 242.036(a), Local Government Code, is
27 amended to read as follows:

1 (a) A subdivider or developer commits an offense if the
2 subdivider or developer knowingly fails to file a plat or replat
3 required by this subchapter. An offense under this subsection is a
4 Class A misdemeanor.

5 SECTION 9. Section 232.038(a), Local Government Code, is
6 amended to read as follows:

7 (a) Except as provided by Subsection (b), a person who has
8 purchased or is purchasing a lot after July 1, 1995, in a
9 subdivision for residential purposes that does not have water and
10 sewer services as required by this subchapter and is located in an
11 economically distressed area, as defined by Section 17.921, Water
12 Code, from a subdivider or developer, may bring suit in the district
13 court in which the property is located or in a district court in
14 Travis County to:

15 (1) declare the sale of the property void and require
16 the subdivider or developer to return the purchase price of the
17 property; and

18 (2) recover from the subdivider or developer:

19 (A) the market value of any permanent
20 improvements the person placed on the property;

21 (B) actual expenses incurred as a direct result
22 of the failure to provide adequate water and sewer facilities;

23 (C) court costs; and

24 (D) reasonable attorney's fees.

25 SECTION 10. Sections 232.040(a), (b), and (c), Local
26 Government Code, are amended to read as follows:

27 (a) A subdivision plat must accurately reflect the

1 subdivision as it develops. If there is any change, either by the
2 intentional act of the subdivider or developer or by the forces of
3 nature, including changes in the size or dimension of lots or the
4 direction or condition of the roads, a plat must be revised in
5 accordance with Section 232.041.

6 (b) Except as provided by Subsection (c), a lot in a
7 subdivision may not be sold if the lot lacks water and sewer
8 services as required by this subchapter unless the lot is platted or
9 replatted as required by this subchapter. A subdivider or
10 developer or agent of a subdivider or developer may not transfer a
11 lot through an executory contract or other similar conveyance to
12 evade the requirements of this subchapter. The prohibition in this
13 subsection includes the sale of a lot:

14 (1) by a subdivider or developer who regains
15 possession of a lot previously exempt under Subsection (c) through
16 the exercise of a remedy described in Section 5.061, Property Code;
17 or

18 (2) for which it is shown at a proceeding brought in
19 the district court in which the property is located that the sale of
20 a lot otherwise exempt under Subsection (c) was made for the purpose
21 of evading the requirements of this subchapter.

22 (c) Subsection (b) does not apply to ~~[if]~~ a seller other
23 than a subdivider, developer, or agent of a subdivider or developer
24 ~~[resides on the lot]~~.

25 SECTION 11. Section 232.029(f), Local Government Code, is
26 repealed.

27 SECTION 12. This Act takes effect immediately if it

1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2007.

HOUSE COMMITTEE REPORT

07 APR 18 AM 12:17
HOUSE OF REPRESENTATIVES

1st Printing

By: Guillen

H.B. No. 3068

Substitute the following for H.B. No. 3068:

By: Hernandez

C.S.H.B. No. 3068

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain municipalities and counties to regulate subdivisions near an international border.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.012, Local Government Code, is amended by amending Subsections (a), (c), (d), (e), (f), (h), and (i) and adding Subsections (j) and (k) to read as follows:

(a) Except as provided by Subsection (c), (d), or (j) ~~[Subsection (e)]~~, an entity described by Subsection (b) may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115.

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987; or

1 (3) the land was first served or connected with
2 service by an entity described by Subsection (b)(4), (b)(5), or
3 (b)(6) before September 1, 1989~~[, or~~

4 ~~[(4) the municipal authority responsible for~~
5 ~~approving plats issues a certificate stating that:~~

6 ~~[(A) the land:~~

7 ~~[(i) was sold or conveyed to the person~~
8 ~~requesting service by any means of conveyance, including a contract~~
9 ~~for deed or executory contract, before:~~

10 ~~[(a) September 1, 1995, in a county~~
11 ~~defined under Section 232.022(a)(1), or~~

12 ~~[(b) September 1, 2005, in a county~~
13 ~~defined under Section 232.022(a)(2),~~

14 ~~[(ii) is located in a subdivision in which~~
15 ~~the entity has previously provided service,~~

16 ~~[(iii) is located outside the limits of the~~
17 ~~municipality,~~

18 ~~[(iv) is located in a county to which~~
19 ~~Subchapter B, Chapter 232, applies, and~~

20 ~~[(v) is the site of construction of a~~
21 ~~residence, evidenced by at least the existence of a completed~~
22 ~~foundation, that was begun on or before:~~

23 ~~[(a) May 1, 1997, in a county defined~~
24 ~~under Section 232.022(a)(1), or~~

25 ~~[(b) September 1, 2005, in a county~~
26 ~~defined under Section 232.022(a)(2), or~~

27 ~~[(B) the land was not subdivided after September~~

1 ~~1, 1995, in a county defined under Section 232.022(a)(1), or~~
2 ~~September 1, 2005, in a county defined under Section 232.022(a)(2),~~
3 ~~and:~~

4 ~~[(i) water service is available within 750~~
5 ~~feet of the subdivided land; or~~

6 ~~[(ii) water service is available more than~~
7 ~~750 feet from the subdivided land and the extension of water service~~
8 ~~to the land may be feasible, subject to a final determination by the~~
9 ~~water service provider].~~

10 (d) In a county to which Subchapter B, Chapter 232, applies,
11 an entity described by Subsection (b) may serve or connect land with
12 water, sewer, electricity, gas, or other utility service that is
13 located in the extraterritorial jurisdiction of a municipality
14 regardless of whether the entity is presented with or otherwise
15 holds a certificate applicable to the land issued under Section
16 212.0115, if the municipal authority responsible for approving
17 plats issues a certificate stating that:

18 (1) the subdivided land:

19 (A) was sold or conveyed by a subdivider or
20 developer by any means of conveyance, including a contract for deed
21 or executory contract, before:

22 (i) September 1, 1995, in a county defined
23 under Section 232.022(a)(1);

24 (ii) September 1, 1999, in a county defined
25 under Section 232.022(a)(1) if, on August 31, 1999, the subdivided
26 land was located in the extraterritorial jurisdiction of a
27 municipality as determined by Chapter 42; or

1 (iii) September 1, 2005, in a county
2 defined under Section 232.022(a)(2);

3 (B) has not been subdivided after September 1,
4 1995, September 1, 1999, or September 1, 2005, as applicable under
5 Paragraph (A);

6 (C) is the site of construction of a residence,
7 evidenced by at least the existence of a completed foundation, that
8 was begun on or before:

9 (i) May 1, 2003, in a county defined under
10 Section 232.022(a)(1); or

11 (ii) September 1, 2005, in a county defined
12 under Section 232.022(a)(2); and

13 (D) has had adequate sewer services installed to
14 service the lot or dwelling;

15 (2) the subdivided land is a lot of record as defined
16 by Section 232.021(6-a) that is located in a county defined by
17 Section 232.022(a)(1) and has adequate sewer services installed
18 that are fully operable to service the lot or dwelling; or

19 (3) the land was not subdivided after September 1,
20 1995, in a county defined under Section 232.022(a)(1), or September
21 1, 2005, in a county defined under Section 232.022(a)(2), and:

22 (A) water service is available within 750 feet of
23 the subdivided land; or

24 (B) water service is available more than 750 feet
25 from the subdivided land and the extension of water service to the
26 land may be feasible, subject to a final determination by the water
27 service provider.

1 (e) An entity described by Subsection (b) may provide
2 utility service to land described by Subsection (d)(1), (2), or (3)
3 ~~[Subsection (c)(4)(A)]~~ only if the person requesting service:

4 (1) is not the land's subdivider or developer or the
5 subdivider's or developer's agent; and

6 (2) provides to the entity a certificate described by
7 Subsection (d) ~~[(c)(4)(A)]~~.

8 (f) ~~[(e)]~~ A person requesting service may obtain a
9 certificate under Subsection (d)(1), (2), or (3) ~~[Subsection~~
10 ~~(c)(4)(A)]~~ only if the person is the owner or purchaser of the
11 subdivided land and provides to the municipal authority responsible
12 for approving plats documentation containing ~~[either]:~~

13 (1) a copy of the means of conveyance or other
14 documents that show that the land was sold or conveyed by a
15 subdivider or developer ~~[to the person requesting service]~~ before
16 September 1, 1995, before September 1, 1999, or before September 1,
17 2005, as applicable under Subsection (d) ~~[, and a notarized~~
18 ~~affidavit by that person that states that construction of a~~
19 ~~residence on the land, evidenced by at least the existence of a~~
20 ~~completed foundation, was begun on or before May 1, 1997, or on or~~
21 ~~before September 1, 2005, as applicable]; [or]~~

22 (2) for a certificate issued under Subsection (d)(1),
23 a notarized affidavit by the person requesting service that states
24 that ~~[the property was sold or conveyed to that person before~~
25 ~~September 1, 1995, or before September 1, 2005, as applicable, and~~
26 ~~that]~~ construction of a residence on the land, evidenced by at least
27 the existence of a completed foundation, was begun on or before May

1 1, 2003, in a county defined by Section 232.022(a)(1) or September
2 1, 2005, in a county defined by Section 232.022(a)(2), and the
3 request for utility connection or service is to connect or serve a
4 residence described by Subsection (d)(1)(C);

5 (3) a notarized affidavit by the person requesting
6 service that states that the subdivided land has not been further
7 subdivided after September 1, 1995, September 1, 1999, or September
8 1, 2005, as applicable under Subsection (d); and

9 (4) evidence that adequate sewer service or facilities
10 have been installed and are fully operable to service the lot or
11 dwelling from an entity described by Subsection (b) or the
12 authorized agent responsible for the licensing or permitting of
13 on-site sewage facilities under Chapter 366, Health and Safety
14 Code. [May 1, 1997, or on or before September 1, 2005, as
15 applicable.

16 ~~[(f) A person requesting service may obtain a certificate~~
17 ~~under Subsection (c)(4)(B) only if the person provides to the~~
18 ~~municipal authority responsible for approving plats an affidavit~~
19 ~~that states that the property was not sold or conveyed to that~~
20 ~~person from a subdivider or the subdivider's agent after September~~
21 ~~1, 1995, or after September 1, 2005, as applicable.]~~

22 (h) This section may not be construed to abrogate any civil
23 or criminal proceeding or prosecution or to waive any penalty
24 against a subdivider or developer for a violation of a state or
25 local law, regardless of the date on which the violation occurred.

26 (i) In this section:

27 (1) "Developer" has the meaning assigned by Section

1 232.021.

2 (2) "Foundation" means the lowest division of a
3 residence, usually consisting of a masonry slab or a pier and beam
4 structure, that is partly or wholly below the surface of the ground
5 and on which the residential structure rests.

6 (3) [~~42~~] "Subdivider" has the meaning assigned by
7 Section 232.021.

8 (j) Except as provided by Subsection (k), this section does
9 not prohibit a water or sewer utility from providing in a county
10 defined by Section 232.022(a)(1) water or sewer utility connection
11 or service to a residential dwelling that:

12 (1) is provided water or wastewater facilities under
13 or in conjunction with a federal or state funding program designed
14 to address inadequate water or wastewater facilities in colonias or
15 to residential lots located in a county described by Section
16 232.022(a)(1);

17 (2) is an existing dwelling identified as an eligible
18 recipient for funding by the funding agency providing adequate
19 water and wastewater facilities or improvements;

20 (3) when connected, will comply with the minimum state
21 standards for both water and sewer facilities and as prescribed by
22 the model subdivision rules adopted under Section 16.343, Water
23 Code; and

24 (4) is located in a project for which the municipality
25 with jurisdiction over the project or the approval of plats within
26 the project area has approved the improvement project by order,
27 resolution, or interlocal agreement under Chapter 791, Government

1 Code.

2 (k) A utility may not serve any subdivided land with water
3 utility connection or service under Subsection (j) unless the
4 entity receives a determination that adequate sewer services have
5 been installed to service the lot or dwelling from the municipal
6 authority responsible for approving plats, an entity described by
7 Subsection (b), or the authorized agent responsible for the
8 licensing or permitting of on-site sewage facilities pursuant to
9 Chapter 366, Health and Safety Code.

10 SECTION 2. Section 232.021, Local Government Code, is
11 amended by amending Subdivision (2) and adding Subdivisions (2-a),
12 (2-b), and (6-a) to read as follows:

13 (2) "Common promotional plan" means any plan or scheme
14 of operation undertaken by a single subdivider or developer or a
15 group of subdividers or developers acting in concert, either
16 personally or through an agent, to offer for sale or lease lots when
17 the land is:

18 (A) contiguous or part of the same area of land;
19 or

20 (B) known, designated, or advertised as a common
21 unit or by a common name.

22 (2-a) "Develop" means a structural improvement or
23 man-made change to a lot intended for residential use undertaken to
24 improve, enhance, or otherwise make suitable real property for
25 purposes of sale, resale, or lease.

26 (2-b) "Developer" means a person who owns any interest
27 in real property and directly or indirectly develops real property

1 in the ordinary course of business or as part of a common
2 promotional plan.

3 (6-a) "Lot of record" means:

4 (A) a lot, the boundaries of which were
5 established by a plat recorded in the office of the county clerk
6 before September 1, 1989, that has not been subdivided after
7 September 1, 1989; or

8 (B) a lot, the boundaries of which were
9 established by a metes and bounds description in a deed of
10 conveyance, a contract of sale, or other executory contract to
11 convey real property that has been legally executed and recorded in
12 the office of the county clerk before September 1, 1989, that has
13 not been subdivided after September 1, 1989.

14 SECTION 3. Section 232.024(b), Local Government Code, is
15 amended to read as follows:

16 (b) If any part of a plat applies to land intended for
17 residential housing and any part of that land lies in a floodplain,
18 the commissioners court shall not approve the plat unless:

19 (1) the subdivision is developed in compliance with
20 the minimum requirements of the National Flood Insurance Program
21 and local regulations or orders adopted under Section 16.315, Water
22 Code; and

23 (2) the plat evidences a restrictive covenant
24 prohibiting [as required by this subsection. The restrictive
25 covenant shall prohibit] the construction of residential housing in
26 any area of the subdivision that is in a floodplain unless the
27 housing is developed in compliance with the minimum requirements of

1 ~~[qualifies for insurance under]~~ the National Flood Insurance
2 Program and local regulations or orders adopted under Section
3 16.315, Water Code ~~[Act of 1968 (42 U.S.C. Sections 4001 through~~
4 ~~4127)]~~.

5 SECTION 4. Section 232.028(b), Local Government Code, is
6 amended to read as follows:

7 (b) On the commissioners court's own motion or on the
8 written request of a subdivider, an owner or resident of a lot in a
9 subdivision, or an entity that provides a utility service, the
10 commissioners court shall make the following determinations
11 regarding the land in which the entity or commissioners court is
12 interested that is located within the jurisdiction of the county:

13 (1) whether a plat has been prepared and whether it has
14 been reviewed and approved by the commissioners court;

15 (2) whether water service facilities have been
16 constructed or installed to service the lot or subdivision under
17 Section 232.023 and are fully operable;

18 (3) whether sewer service facilities have been
19 constructed or installed to service the lot or subdivision under
20 Section 232.023 and are fully operable, or if septic systems are
21 used, whether the lot is served by a permitted on-site sewage
22 facility or lots in the subdivision can be adequately and legally
23 served by septic systems under Section 232.023; and

24 (4) whether electrical and gas facilities, if
25 available, have been constructed or installed to service the lot or
26 subdivision under Section 232.023.

27 SECTION 5. Section 232.029, Local Government Code, is

1 amended by amending Subsections (b), (c), (d), (e), and (i) and
2 adding Subsections (k) and (l) to read as follows:

3 (b) Except as provided by Subsection (c) or Section
4 232.037(c), a utility may not serve or connect any subdivided land
5 with electricity or gas unless the entity receives a determination
6 from the county commissioners court under Sections 232.028(b)(2)
7 and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer
8 services have been installed to service the lot or subdivision.

9 (c) An electric, gas, water, or sewer service utility may
10 serve or connect subdivided land with water, sewer, electricity,
11 gas, or other utility service regardless of whether the utility
12 receives a certificate issued by the commissioners court under
13 Section 232.028(a) or receives a determination from the
14 commissioners court under Section 232.028(b) if the utility is
15 provided with a certificate issued by the commissioners court that
16 states that:

17 (1) the subdivided land:

18 (A) was sold or conveyed by a subdivider or
19 developer [~~to the person requesting service~~] by any means of
20 conveyance, including a contract for deed or executory contract:

21 (i) before September 1, 1995; or

22 (ii) before September 1, 1999, if the
23 subdivided land on August 31, 1999, was located in the
24 extraterritorial jurisdiction of a municipality as determined by
25 Chapter 42;

26 (B) has not been subdivided after September 1,
27 1995, or September 1, 1999, as applicable under Paragraph (A); [~~is~~

1 ~~located in a subdivision in which the utility has previously~~
2 ~~provided service, and]~~

3 (C) is the site of construction of a residence,
4 evidenced by at least the existence of a completed foundation, that
5 was begun[+

6 ~~[(i) on or before May 1, 1997, or~~

7 ~~[(ii)] on or before May 1, 2003; and~~

8 (D) has had adequate sewer services installed to
9 service the lot or dwelling;

10 (2) the subdivided land is a lot of record and has
11 adequate sewer services installed that are fully operable to
12 service the lot or dwelling~~[, if the subdivided land on August 31,~~
13 ~~1999, was located in the extraterritorial jurisdiction of a~~
14 ~~municipality as determined by Chapter 42]; or~~

15 (3) [(2)] the land was not subdivided after September
16 1, 1995, and:

17 (A) water service is available within 750 feet of
18 the subdivided land; or

19 (B) water service is available more than 750 feet
20 from the subdivided land and the extension of water service to the
21 land may be feasible, subject to a final determination by the water
22 service provider.

23 (d) A utility may provide utility service to subdivided land
24 described by Subsection (c)(1), (2), or (3) only if the person
25 requesting service:

26 (1) is not the land's subdivider or developer or the
27 subdivider's or developer's agent; and

(2) provides to the utility a certificate described by Subsection (c) ~~[(e)(1)]~~.

(e) A person requesting service may obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing ~~[either]~~:

(1) ~~[documentation containing:~~

~~[(A)]~~ a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);

~~(2) [to the person requesting service:~~

~~[(i) before September 1, 1995, or~~

~~[(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42, and~~

~~[(B)]~~ a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun~~+~~

~~[(i) on or before May 1, 1997, or~~

~~[(ii)]~~ on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by Subsection (c)(1)(C);

~~(3) [, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as~~

1 ~~determined by Chapter 42, or~~

2 ~~[(2)]~~ a notarized affidavit by the person requesting
3 service that states that the subdivided land has not been further
4 subdivided after~~+~~

5 ~~[(A) the property was sold or conveyed to that~~
6 ~~person.~~

7 ~~[(i) before]~~ September 1, 1995, ~~+~~ or

8 ~~[(ii) before]~~ September 1, 1999, as
9 applicable under Subsection (c); and

10 (4) evidence that adequate sewer service or facilities
11 have been installed and are fully operable to service the lot or
12 dwelling from an entity described by Section 232.021(14) or the
13 authorized agent responsible for the licensing or permitting of
14 on-site sewage facilities under Chapter 366, Health and Safety Code
15 ~~[if the subdivided land on August 31, 1999, was located in the~~
16 ~~extraterritorial jurisdiction of a municipality as determined by~~
17 ~~Chapter 42, and~~

18 ~~[(B) construction of a residence on the land,~~
19 ~~evidenced by at least the existence of a completed foundation, was~~
20 ~~begun.~~

21 ~~[(i) on or before May 1, 1997, or~~

22 ~~[(ii) on or before May 1, 2003, if the~~
23 ~~subdivided land on August 31, 1999, was located in the~~
24 ~~extraterritorial jurisdiction of a municipality as determined by~~
25 ~~Chapter 42].~~

26 (i) The prohibition established by this section shall not
27 prohibit a water, sewer, ~~[an]~~ electric, or gas utility from

1 providing water, sewer, electric, or gas utility connection or
 2 service to a lot ~~[being]~~ sold, conveyed, or purchased through a
 3 contract for deed or executory contract or other device by a
 4 subdivider or developer prior to July 1, 1995, or September 1, 1999,
 5 if on August 31, 1999, the subdivided land was located in the
 6 extraterritorial jurisdiction of a municipality that has adequate
 7 sewer services installed that are fully operable to service the lot
 8 ~~[which is located within a subdivision where the utility has~~
 9 ~~previously established service]~~ and was subdivided by a plat
 10 approved prior to September 1, 1989.

11 (k) Except as provided by Subsection (1), this section does
 12 not prohibit a water or sewer utility from providing water or sewer
 13 utility connection or service to a residential dwelling that:

14 (1) is provided water or wastewater facilities under
 15 or in conjunction with a federal or state funding program designed
 16 to address inadequate water or wastewater facilities in colonias or
 17 to residential lots located in a county described by Section
 18 232.022(a)(1);

19 (2) is an existing dwelling identified as an eligible
 20 recipient for funding by the funding agency providing adequate
 21 water and wastewater facilities or improvements;

22 (3) when connected, will comply with the minimum state
 23 standards for both water and sewer facilities and as prescribed by
 24 the model subdivision rules adopted under Section 16.343, Water
 25 Code; and

26 (4) is located in a project for which the municipality
 27 with jurisdiction over the project or the approval of plats within

1 the project area has approved the improvement project by order,
2 resolution, or interlocal agreement under Chapter 791, Government
3 Code, if applicable.

4 (1) A utility may not serve any subdivided land with water
5 utility connection or service under Subsection (k) unless the
6 entity receives a determination from the county commissioners court
7 under Section 232.028(b)(3) that adequate sewer services have been
8 installed to service the lot or dwelling.

9 SECTION 6. Sections 232.031(a) and (b), Local Government
10 Code, are amended to read as follows:

11 (a) Except as provided by Subsection (d), a subdivider or
12 developer may not sell or lease land in a subdivision first platted
13 or replatted after July 1, 1995, unless the subdivision plat is
14 approved by the commissioners court in accordance with Section
15 232.024.

16 (b) Not later than the 30th day after the date a lot is sold,
17 a subdivider or developer shall record with the county clerk all
18 sales contracts, including the attached disclosure statement
19 required by Section 232.033, leases, and any other documents that
20 convey an interest in the subdivided land.

21 SECTION 7. Sections 232.035(a) and (b), Local Government
22 Code, are amended to read as follows:

23 (a) A subdivider or developer or an agent of a subdivider or
24 developer may not cause, suffer, allow, or permit a lot to be sold
25 in a subdivision if the subdivision has not been platted as required
26 by this subchapter.

27 (b) Notwithstanding any other remedy at law or equity, a

1 subdivider or developer or an agent of a subdivider or developer may
2 not cause, suffer, allow, or permit any part of a subdivision over
3 which the subdivider or developer or an agent of the subdivider or
4 developer has control, or a right of ingress and egress, to become a
5 public health nuisance as defined by Section 341.011, Health and
6 Safety Code.

7 SECTION 8. Section 232.036(a), Local Government Code, is
8 amended to read as follows:

9 (a) A subdivider or developer commits an offense if the
10 subdivider or developer knowingly fails to file a plat or replat
11 required by this subchapter. An offense under this subsection is a
12 Class A misdemeanor.

13 SECTION 9. Section 232.038(a), Local Government Code, is
14 amended to read as follows:

15 (a) Except as provided by Subsection (b), a person who has
16 purchased or is purchasing a lot after July 1, 1995, in a
17 subdivision for residential purposes that does not have water and
18 sewer services as required by this subchapter and is located in an
19 economically distressed area, as defined by Section 17.921, Water
20 Code, from a subdivider or developer, may bring suit in the district
21 court in which the property is located or in a district court in
22 Travis County to:

23 (1) declare the sale of the property void and require
24 the subdivider or developer to return the purchase price of the
25 property; and

26 (2) recover from the subdivider or developer:

27 (A) the market value of any permanent

1 improvements the person placed on the property;

2 (B) actual expenses incurred as a direct result
3 of the failure to provide adequate water and sewer facilities;

4 (C) court costs; and

5 (D) reasonable attorney's fees.

6 SECTION 10. Sections 232.040(a), (b), and (c), Local
7 Government Code, are amended to read as follows:

8 (a) A subdivision plat must accurately reflect the
9 subdivision as it develops. If there is any change, either by the
10 intentional act of the subdivider or developer or by the forces of
11 nature, including changes in the size or dimension of lots or the
12 direction or condition of the roads, a plat must be revised in
13 accordance with Section 232.041.

14 (b) Except as provided by Subsection (c), a lot in a
15 subdivision may not be sold if the lot lacks water and sewer
16 services as required by this subchapter unless the lot is platted or
17 replatted as required by this subchapter. A subdivider or
18 developer or agent of a subdivider or developer may not transfer a
19 lot through an executory contract or other similar conveyance to
20 evade the requirements of this subchapter. The prohibition in this
21 subsection includes the sale of a lot:

22 (1) by a subdivider or developer who regains
23 possession of a lot previously exempt under Subsection (c) through
24 the exercise of a remedy described in Section 5.061, Property Code;
25 or

26 (2) for which it is shown at a proceeding brought in
27 the district court in which the property is located that the sale of

1 a lot otherwise exempt under Subsection (c) was made for the purpose
2 of evading the requirements of this subchapter.

3 (c) Subsection (b) does not apply to if a seller other
4 than a subdivider, developer, or agent of a subdivider or developer
5 ~~[resides on the lot]~~.

6 SECTION 11. Section 232.029(f), Local Government Code, is
7 repealed.

8 SECTION 12. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2007.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

04-16-07
(date)

Sir:

We, your COMMITTEE ON BORDER AND INTERNATIONAL AFFAIRS

to whom was referred HB 3068 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (x) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (x) yes () no A fiscal note was requested.
- () yes (x) no A criminal justice policy impact statement was requested.
- () yes (x) no An equalized educational funding impact statement was requested.
- () yes (x) no An actuarial analysis was requested.
- () yes (x) no A water development policy impact statement was requested.
- () yes (x) no A tax equity note was requested.
- () The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor

Joint Sponsors:

Co-Sponsors:

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
King, T., Chair	x			
Frost, Vice-chair	x			
Pickett	x			
Merritt	x			
Hardcastle	x			
Castro	x			
Hernandez	x			

Total 1 aye
0 nay
0 present, not voting
0 absent

Chair
CHAIR

BILL ANALYSIS

C.S.H.B. 3068
By: Guillen
Border & International Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Since 1989, the Legislature has passed legislation pertaining to the regulation of colonias, with the intention of stopping the proliferation of colonias by unscrupulous developers in border and economically distressed counties. The most significant changes for border counties occurred in 1995, when the Legislature enacted provisions that tightened restrictions on existing colonias and prohibited the sale of any residential lot without adequate water and sewer facilities.

With limited enforcement tools available, restrictions on the connection of utilities provided a solution to enforcement by the local government. However, many of these restrictions have resulted in an undue hardship on the purchasers of the properties that the laws were meant to protect and have resulted in further victimization, rather than simply preventing more victims of unscrupulous developers.

Currently, colonias are limited to providing only electricity or gas services to lots platted before 1989. Therefore, individual lots must now be re-platted before water or sewer services are connected. The result is not only undue financial burden to re-plat the entire tract of land; it also limits the ability to systematically phase in water and sewer services to areas that need it most.

C.S.H.B. 3068 will amend existing statutes that restrict utility connections and that penalize individual property owners who are not subdividers or developers of residential properties. This bill clarifies the grandfathering provisions regarding the sale of colonia property and ease the inordinate number of unfulfilled requests for utility connections from pre-existing colonias by allowing the connections to be made without a re-platting of land.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3068 amends the Local Government Code by amending provisions by which a utility is authorized to serve or connect certain lands, defining certain terms, amending the criteria by which a plat of land intended for residential use may be approved by the commissioners court, and amending certain duties of the commissioners court regarding certain lots or subdivisions. The bill also amends the Local Government Code by amending provisions by which a utility entity may serve or connect subdivided land. The bill further amends the Local Government Code by establishing provisions regarding the sell or lease of certain land by a developer, expanding certain existing provisions to include developers, and repealing Section 232.029(f).

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON BETWEEN COMMITTEE SUBSTITUTE AND ORIGINAL

The substitute differs from the original by revising the provisions by which a utility is authorized to serve or connect certain lands by adding provisions relating to certain lands to which water service is available within 750 feet of the subdivided land or water service is available more than

750 feet from the subdivided land and the extension of the water service to the land may be feasible, subject to a final determination by the water service provider. The bill makes conforming changes relating to the new language and restores similar language previously deleted.

SUMMARY OF COMMITTEE ACTION

HB 3068

April 02, 2007 2:00 PM or upon final adjourn./recess

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Left pending in committee

April 16, 2007 upon final adjourn./recess

Considered in formal meeting

Committee substitute considered in committee

Reported favorably as substituted

WITNESS LIST

HB 3068

HOUSE COMMITTEE REPORT

Border & International Affairs Committee

April 2, 2007 - 2:00 PM or upon final adjourn./recess

For: Tiffin, Rhonda M. (Webb County Commissioners Court
1000 Houston St., Laredo, Tx. 78040)
On: Reyna, Israel Morales (Texas Rio Grande Legal Aid, INC
Laredo, TEXAS)

Registering, but not testifying:

For: Garza, Webb County Commissioner Jerry (Webb County)
Gonzalez, Daniel (Texas Association of REALTORS)
Valdez, Judge Danny (Webb County)
Vidaurre, Rafael (Webb County)

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 17, 2007

TO: Honorable Tracy King, Chair, House Committee on Border & International Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority of certain municipalities and counties to regulate subdivision near an international border.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Chapters 212 and 232 of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, CL, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 28, 2007

TO: Honorable Tracy King, Chair, House Committee on Border & International Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority of certain municipalities and counties to regulate subdivisions near an international border.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Chapters 212 and 232 of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, CL, DB

((This is the Substitute))

ADOPTED

MAY 02 2007

Robert Haney
Chief Clerk
House of Representatives

as amended

By: Gutten

H.B. No. 3068

Substitute the following for H.B. No. 3068:

By: Hernandez

C.S. H.B. No. 3068

A BILL TO BE ENTITLED

AN ACT

(and responsibilities) political subdivisions
relating to the authority of certain municipalities and counties to
in relation to development
regulate subdivisions near an international border.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

((INSERT 3))

SECTION 2. Section 212.012, Local Government Code, is amended by amending Subsections (a), (c), (d), (e), (f), (h), and (i) and adding Subsections (j) and (k) to read as follows:

(a) Except as provided by Subsection (c), (d), or (j) [Subsection (e)], an entity described by Subsection (b) may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115.

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987; or

1 (3) the land was first served or connected with
2 service by an entity described by Subsection (b)(4), (b)(5), or
3 (b)(6) before September 1, 1989~~[, or~~

4 ~~[(4) the municipal authority responsible for~~
5 ~~approving plats issues a certificate stating that:~~

6 ~~[(A) the land:~~

7 ~~[(i) was sold or conveyed to the person~~
8 ~~requesting service by any means of conveyance, including a contract~~
9 ~~for deed or executory contract, before:~~

10 ~~[(a) September 1, 1995, in a county~~
11 ~~defined under Section 232.022(a)(1), or~~

12 ~~[(b) September 1, 2005, in a county~~
13 ~~defined under Section 232.022(a)(2),~~

14 ~~[(ii) is located in a subdivision in which~~
15 ~~the entity has previously provided service,~~

16 ~~[(iii) is located outside the limits of the~~
17 ~~municipality,~~

18 ~~[(iv) is located in a county to which~~
19 ~~Subchapter B, Chapter 232, applies, and~~

20 ~~[(v) is the site of construction of a~~
21 ~~residence, evidenced by at least the existence of a completed~~
22 ~~foundation, that was begun on or before:~~

23 ~~[(a) May 1, 1997, in a county defined~~
24 ~~under Section 232.022(a)(1), or~~

25 ~~[(b) September 1, 2005, in a county~~
26 ~~defined under Section 232.022(a)(2), or~~

27 ~~[(B) the land was not subdivided after September~~

2

1 ~~1, 1995, in a county defined under Section 232.022(a)(1), or~~
2 ~~September 1, 2005, in a county defined under Section 232.022(a)(2),~~
3 ~~and:~~

4 ~~[(i) water service is available within 750~~
5 ~~feet of the subdivided land, or~~

6 ~~[(ii) water service is available more than~~
7 ~~750 feet from the subdivided land and the extension of water service~~
8 ~~to the land may be feasible, subject to a final determination by the~~
9 ~~water service provider].~~

10 (d) In a county to which Subchapter B, Chapter 232, applies,
11 an entity described by Subsection (b) may serve or connect land with
12 water, sewer, electricity, gas, or other utility service that is
13 located in the extraterritorial jurisdiction of a municipality
14 regardless of whether the entity is presented with or otherwise
15 holds a certificate applicable to the land issued under Section
16 212.0115, if the municipal authority responsible for approving
17 plats issues a certificate stating that:

18 (1) the subdivided land:

19 (A) was sold or conveyed by a subdivider or
20 developer by any means of conveyance, including a contract for deed
21 or executory contract, before:

22 ✓ (i) September 1, 1995, in a county defined
23 under Section 232.022(a)(1);

24 (ii) September 1, 1999, in a county defined
25 under Section 232.022(a)(1) if, on August 31, 1999, the subdivided
26 land was located in the extraterritorial jurisdiction of a
27 municipality as determined by Chapter 42; or

1 (iii) September 1, 2005, in a county
2 defined under Section 232.022(a)(2);

3 (B) has not been subdivided after September 1,
4 1995, September 1, 1999, or September 1, 2005, as applicable under
5 Paragraph (A);

6 (C) is the site of construction of a residence,
7 evidenced by at least the existence of a completed foundation, that
8 was begun on or before:

9 (i) May 1, 2003, in a county defined under
10 Section 232.022(a)(1); or

11 (ii) September 1, 2005, in a county defined
12 under Section 232.022(a)(2); and

13 (D) has had adequate sewer services installed to
14 service the lot or dwelling;

15 (2) the subdivided land is a lot of record as defined
16 by Section 232.021(6-a) that is located in a county defined by
17 Section 232.022(a)(1) and has adequate sewer services installed
18 that are fully operable to service the lot or dwelling; or

19 (3) the land was not subdivided after September 1,
20 1995, in a county defined under Section 232.022(a)(1), or September
21 1, 2005, in a county defined under Section 232.022(a)(2), and:

22 (A) water service is available within 750 feet of
23 the subdivided land; or

24 (B) water service is available more than 750 feet
25 from the subdivided land and the extension of water service to the
26 land may be feasible, subject to a final determination by the water
27 service provider.

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(e) An entity described by Subsection (b) may provide utility service to land described by Subsection (d)(1), (2), or (3) ~~[Subsection (c)(4)(A)]~~ only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the entity a certificate described by Subsection (d) ~~[(c)(4)(A)]~~.

(f) ~~[(e)]~~ A person requesting service may obtain a certificate under Subsection (d)(1), (2), or (3) ~~[Subsection (c)(4)(A)]~~ only if the person is the owner or purchaser of the subdivided land and provides to the municipal authority responsible for approving plats documentation containing ~~[either]:~~

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer ~~[to the person requesting service]~~ before September 1, 1995, before September 1, 1999, or before September 1, 2005, as applicable under Subsection (d) ~~[, and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997, or on or before September 1, 2005, as applicable]; [or]~~

(2) for a certificate issued under Subsection (d)(1), a notarized affidavit by the person requesting service that states that ~~[the property was sold or conveyed to that person before September 1, 1995, or before September 1, 2005, as applicable, and that]~~ construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May

1 1, 2003, in a county defined by Section 232.022(a)(1) or September
2 1, 2005, in a county defined by Section 232.022(a)(2), and the
3 request for utility connection or service is to connect or serve a
4 residence described by Subsection (d)(1)(C);

5 (3) a notarized affidavit by the person requesting
6 service that states that the subdivided land has not been further
7 subdivided after September 1, 1995, September 1, 1999, or September
8 1, 2005, as applicable under Subsection (d); and

9 (4) evidence that adequate sewer service or facilities
10 have been installed and are fully operable to service the lot or
11 dwelling from an entity described by Subsection (b) or the
12 authorized agent responsible for the licensing or permitting of
13 on-site sewage facilities under Chapter 366, Health and Safety
14 Code. [May 1, 1997, or on or before September 1, 2005, as
15 applicable.

16 ~~[(f) A person requesting service may obtain a certificate~~
17 ~~under Subsection (c)(4)(B) only if the person provides to the~~
18 ~~municipal authority responsible for approving plats an affidavit~~
19 ~~that states that the property was not sold or conveyed to that~~
20 ~~person from a subdivider or the subdivider's agent after September~~
21 ~~1, 1995, or after September 1, 2005, as applicable.]~~

22 (h) This section may not be construed to abrogate any civil
23 or criminal proceeding or prosecution or to waive any penalty
24 against a subdivider or developer for a violation of a state or
25 local law, regardless of the date on which the violation occurred.

26 (i) In this section:

27 (1) "Developer" has the meaning assigned by Section

4

1 232.021.

2 (2) "Foundation" means the lowest division of a
3 residence, usually consisting of a masonry slab or a pier and beam
4 structure, that is partly or wholly below the surface of the ground
5 and on which the residential structure rests.

6 (3) [~~2~~] "Subdivider" has the meaning assigned by
7 Section 232.021.

8 (j) Except as provided by Subsection (k), this section does
9 not prohibit a water or sewer utility from providing in a county
10 defined by Section 232.022(a)(1) water or sewer utility connection
11 or service to a residential dwelling that:

12 (1) is provided water or wastewater facilities under
13 or in conjunction with a federal or state funding program designed
14 to address inadequate water or wastewater facilities in colonias or
15 to residential lots located in a county described by Section
16 232.022(a)(1);

17 (2) is an existing dwelling identified as an eligible
18 recipient for funding by the funding agency providing adequate
19 water and wastewater facilities or improvements;

20 (3) when connected, will comply with the minimum state
21 standards for both water and sewer facilities and as prescribed by
22 the model subdivision rules adopted under Section 16.343, Water
23 Code; and

1(0) 24 (4) is located in a project for which the ^{political subdivisions} ~~municipality~~
25 with jurisdiction over the project or the approval of plats within
1(2) 26 the project area ^{have} ~~has~~ approved the improvement project by order,
27 resolution, or interlocal agreement under Chapter 791, Government

1 Code.

2 (k) A utility may not serve any subdivided land with water
3 utility connection or service under Subsection (j) unless the
4 entity receives a determination that adequate sewer services have
5 been installed to service the lot or dwelling from the municipal
6 authority responsible for approving plats, an entity described by
7 Subsection (b), or the authorized agent responsible for the
8 licensing or permitting of on-site sewage facilities pursuant to
9 Chapter 366, Health and Safety Code.

10 (("INSERT 1"))

10 SECTION 4. Section 232.021, Local Government Code, is
11 amended by amending Subdivision (2) and adding Subdivisions (2-a),
12 (2-b), and (6-a) to read as follows:

13 (2) "Common promotional plan" means any plan or scheme
14 of operation undertaken by a single subdivider or developer or a
15 group of subdividers or developers acting in concert, either
16 personally or through an agent, to offer for sale or lease lots when
17 the land is:

18 (A) contiguous or part of the same area of land;
19 or

20 (B) known, designated, or advertised as a common
21 unit or by a common name.

22 (2-a) "Develop" means a structural improvement or
23 man-made change to a lot intended for residential use undertaken to
24 improve, enhance, or otherwise make suitable real property for
25 purposes of sale, resale, or lease.

26 (2-b) "Developer" means a person who owns any interest
27 in real property and directly or indirectly develops real property

5

1 in the ordinary course of business or as part of a common
2 promotional plan.

3 (6-a) "Lot of record" means:

4 (A) a lot, the boundaries of which were
5 established by a plat recorded in the office of the county clerk
6 before September 1, 1989, that has not been subdivided after
7 September 1, 1989; or

8 (B) a lot, the boundaries of which were
9 established by a metes and bounds description in a deed of
10 conveyance, a contract of sale, or other executory contract to
11 convey real property that has been legally executed and recorded in
12 the office of the county clerk before September 1, 1989, that has
13 not been subdivided after September 1, 1989.

14 SECTION ⁵ 232.024(b), Local Government Code, is
15 amended to read as follows:

16 (b) If any part of a plat applies to land intended for
17 residential housing and any part of that land lies in a floodplain,
18 the commissioners court shall not approve the plat unless:

19 (1) the subdivision is developed in compliance with
20 the minimum requirements of the National Flood Insurance Program
21 and local regulations or orders adopted under Section 16.315, Water
22 Code; and

23 (2) the plat evidences a restrictive covenant
24 prohibiting [as required by this subsection. The restrictive
25 covenant shall prohibit] the construction of residential housing in
26 any area of the subdivision that is in a floodplain unless the
27 housing is developed in compliance with the minimum requirements of

1 ~~[qualifies for insurance under]~~ the National Flood Insurance
2 Program and local regulations or orders adopted under Section
3 16.315, Water Code [Act of 1968 (42 U.S.C. Sections 4001 through
4 4127)].

5 SECTION ⁴4. Section 232.028(b), Local Government Code, is
6 amended to read as follows:

7 (b) On the commissioners court's own motion or on the
8 written request of a subdivider, an owner or resident of a lot in a
9 subdivision, or an entity that provides a utility service, the
10 commissioners court shall make the following determinations
11 regarding the land in which the entity or commissioners court is
12 interested that is located within the jurisdiction of the county:

13 (1) whether a plat has been prepared and whether it has
14 been reviewed and approved by the commissioners court;

15 (2) whether water service facilities have been
16 constructed or installed to service the lot or subdivision under
17 Section 232.023 and are fully operable;

18 (3) whether sewer service facilities have been
19 constructed or installed to service the lot or subdivision under
20 Section 232.023 and are fully operable; or if septic systems are
21 used, whether the lot is served by a permitted on-site sewage
22 facility or lots in the subdivision can be adequately and legally
23 served by septic systems under Section 232.023; and

24 (4) whether electrical and gas facilities, if
25 available, have been constructed or installed to service the lot or
26 subdivision under Section 232.023.

27 SECTION ⁵5. Section 232.029, Local Government Code, is

6

1 amended by amending Subsections (b), (c), (d), (e), and (i) and
2 adding Subsections (k) and (l) to read as follows:

3 (b) Except as provided by Subsection (c) or Section
4 232.037(c), a utility may not serve or connect any subdivided land
5 with electricity or gas unless the entity receives a determination
6 from the county commissioners court under Sections 232.028(b)(2)
7 and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer
8 services have been installed to service the lot or subdivision.

9 (c) An electric, gas, water, or sewer service utility may
10 serve or connect subdivided land with water, sewer, electricity,
11 gas, or other utility service regardless of whether the utility
12 receives a certificate issued by the commissioners court under
13 Section 232.028(a) or receives a determination from the
14 commissioners court under Section 232.028(b) if the utility is
15 provided with a certificate issued by the commissioners court that
16 states that:

17 (1) the subdivided land:

18 (A) was sold or conveyed by a subdivider or
19 developer [~~to the person requesting service~~] by any means of
20 conveyance, including a contract for deed or executory contract:

21 (i) before September 1, 1995; or

22 (ii) before September 1, 1999, if the
23 subdivided land on August 31, 1999, was located in the
24 extraterritorial jurisdiction of a municipality as determined by
25 Chapter 42;

26 (B) has not been subdivided after September 1,
27 1995, or September 1, 1999, as applicable under Paragraph (A); [~~is~~

1 ~~located in a subdivision in which the utility has previously~~
2 ~~provided service, and]~~

3 (C) is the site of construction of a residence,
4 evidenced by at least the existence of a completed foundation, that
5 was begun[+

6 [~~(i)~~ on or before May 1, 1997, or

7 [~~(ii)~~] on or before May 1, 2003; and

8 (D) has had adequate sewer services installed to
9 service the lot or dwelling;

10 (2) the subdivided land is a lot of record and has
11 adequate sewer services installed that are fully operable to
12 service the lot or dwelling[~~, if the subdivided land on August 31,~~
13 ~~1999, was located in the extraterritorial jurisdiction of a~~
14 ~~municipality as determined by Chapter 42]; or~~

15 (3) [~~(2)~~] the land was not subdivided after September
16 1, 1995, and:

17 (A) water service is available within 750 feet of
18 the subdivided land; or

19 (B) water service is available more than 750 feet
20 from the subdivided land and the extension of water service to the
21 land may be feasible, subject to a final determination by the water
22 service provider.

23 (d) A utility may provide utility service to subdivided land
24 described by Subsection (c)(1), (2), or (3) only if the person
25 requesting service:

26 (1) is not the land's subdivider or developer or the
27 subdivider's or developer's agent; and

4

(2) provides to the utility a certificate described by Subsection (c) ~~[(c)(1)]~~.

(e) A person requesting service may obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing ~~[either]:~~

(1) ~~[documentation containing:~~

~~[(A)]~~ a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);

~~(2) [to the person requesting service:~~

~~[(i) before September 1, 1995, or
[(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42, and~~

~~[(B)]~~ a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun~~+~~

~~[(i) on or before May 1, 1997, or
[(ii)] on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by Subsection (c)(1)(C);~~

(3) ~~[, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as~~

1 ~~determined by Chapter 42, or~~

2 ~~[(2)]~~ a notarized affidavit by the person requesting
3 service that states that the subdivided land has not been further
4 subdivided after [+]

5 ~~[(A) the property was sold or conveyed to that~~
6 ~~person.~~

7 ~~[(i) before]~~ September 1, 1995, [+], or

8 ~~[(ii) before]~~ September 1, 1999, as
9 applicable under Subsection (c); and

10 (4) evidence that adequate sewer service or facilities
11 have been installed and are fully operable to service the lot or
12 dwelling from an entity described by Section 232.021(14) or the
13 authorized agent responsible for the licensing or permitting of
14 on-site sewage facilities under Chapter 366, Health and Safety Code
15 ~~[if the subdivided land on August 31, 1999, was located in the~~
16 ~~extraterritorial jurisdiction of a municipality as determined by~~
17 ~~Chapter 42, and~~

18 ~~[(B) construction of a residence on the land,~~
19 ~~evidenced by at least the existence of a completed foundation, was~~
20 ~~begun.~~

21 ~~[(i) on or before May 1, 1997, or~~

22 ~~[(ii) on or before May 1, 2003, if the~~
23 ~~subdivided land on August 31, 1999, was located in the~~
24 ~~extraterritorial jurisdiction of a municipality as determined by~~
25 ~~Chapter 42].~~

26 (i) The prohibition established by this section shall not
27 prohibit a water, sewer, [an] electric, or gas utility from

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1 providing water, sewer, electric, or gas utility connection or
2 service to a lot [being] sold, conveyed, or purchased through a
3 contract for deed or executory contract or other device by a
4 subdivider or developer prior to July 1, 1995, or September 1, 1999,
5 if on August 31, 1999, the subdivided land was located in the
6 extraterritorial jurisdiction of a municipality that has adequate
7 sewer services installed that are fully operable to service the lot
8 [which is located within a subdivision where the utility has
9 previously established service] and was subdivided by a plat
10 approved prior to September 1, 1989.

11 (k) Except as provided by Subsection (1), this section does
12 not prohibit a water or sewer utility from providing water or sewer
13 utility connection or service to a residential dwelling that:

14 (1) is provided water or wastewater facilities under
15 or in conjunction with a federal or state funding program designed
16 to address inadequate water or wastewater facilities in colonias or
17 to residential lots located in a county described by Section
18 232.022(a)(1);

19 (2) is an existing dwelling identified as an eligible
20 recipient for funding by the funding agency providing adequate
21 water and wastewater facilities or improvements;

22 (3) when connected, will comply with the minimum state
23 standards for both water and sewer facilities and as prescribed by
24 the model subdivision rules adopted under Section 16.343, Water
25 Code; and

26 (4) is located in a project for which the municipality
27 with jurisdiction over the project or the approval of plats within

political subdivisions

(4) 1 the project area ^{have} has approved the improvement project by order,
2 resolution, or interlocal agreement under Chapter 791, Government
3 Code, if applicable.

4 (1) A utility may not serve any subdivided land with water
5 utility connection or service under Subsection (k) unless the
6 entity receives a determination from the county commissioners court
7 under Section 232.028(b)(3) that adequate sewer services have been
8 installed to service the lot or dwelling.

9 SECTION ⁸8. Sections 232.031(a) and (b), Local Government
10 Code, are amended to read as follows:

11 (a) Except as provided by Subsection (d), a subdivider or
12 developer may not sell or lease land in a subdivision first platted
13 or replatted after July 1, 1995, unless the subdivision plat is
14 approved by the commissioners court in accordance with Section
15 232.024.

16 (b) Not later than the 30th day after the date a lot is sold,
17 a subdivider or developer shall record with the county clerk all
18 sales contracts, including the attached disclosure statement
19 required by Section 232.033, leases, and any other documents that
20 convey an interest in the subdivided land.

21 SECTION ⁹9. Sections 232.035(a) and (b), Local Government
22 Code, are amended to read as follows:

23 (a) A subdivider or developer or an agent of a subdivider or
24 developer may not cause, suffer, allow, or permit a lot to be sold
25 in a subdivision if the subdivision has not been platted as required
26 by this subchapter.

27 (b) Notwithstanding any other remedy at law or equity, a

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1 subdivider or developer or an agent of a subdivider or developer may
2 not cause, suffer, allow, or permit any part of a subdivision over
3 which the subdivider or developer or an agent of the subdivider or
4 developer has control, or a right of ingress and egress, to become a
5 public health nuisance as defined by Section 341.011, Health and
6 Safety Code.

7 SECTION 8. Section 232.036(a), Local Government Code, is
8 amended to read as follows:

9 (a) A subdivider or developer commits an offense if the
10 subdivider or developer knowingly fails to file a plat or replat
11 required by this subchapter. An offense under this subsection is a
12 Class A misdemeanor.

13 SECTION 9. Section 232.038(a), Local Government Code, is
14 amended to read as follows:

15 (a) Except as provided by Subsection (b), a person who has
16 purchased or is purchasing a lot after July 1, 1995, in a
17 subdivision for residential purposes that does not have water and
18 sewer services as required by this subchapter and is located in an
19 economically distressed area, as defined by Section 17.921, Water
20 Code, from a subdivider or developer, may bring suit in the district
21 court in which the property is located or in a district court in
22 Travis County to:

23 (1) declare the sale of the property void and require
24 the subdivider or developer to return the purchase price of the
25 property; and

26 (2) recover from the subdivider or developer:

27 (A) the market value of any permanent

1 improvements the person placed on the property;

2 (B) actual expenses incurred as a direct result
3 of the failure to provide adequate water and sewer facilities;

4 (C) court costs; and

5 (D) reasonable attorney's fees.

6 SECTION ¹²~~10~~. Sections 232.040(a), (b), and (c), Local
7 Government Code, are amended to read as follows:

8 (a) A subdivision plat must accurately reflect the
9 subdivision as it develops. If there is any change, either by the
10 intentional act of the subdivider or developer or by the forces of
11 nature, including changes in the size or dimension of lots or the
12 direction or condition of the roads, a plat must be revised in
13 accordance with Section 232.041.

14 (b) Except as provided by Subsection (c), a lot in a
15 subdivision may not be sold if the lot lacks water and sewer
16 services as required by this subchapter unless the lot is platted or
17 replatted as required by this subchapter. A subdivider or
18 developer or agent of a subdivider or developer may not transfer a
19 lot through an executory contract or other similar conveyance to
20 evade the requirements of this subchapter. The prohibition in this
21 subsection includes the sale of a lot:

22 (1) by a subdivider or developer who regains
23 possession of a lot previously exempt under Subsection (c) through
24 the exercise of a remedy described in Section 5.061, Property Code;
25 or

26 (2) for which it is shown at a proceeding brought in
27 the district court in which the property is located that the sale of

10

1 a lot otherwise exempt under Subsection (c) was made for the purpose
2 of evading the requirements of this subchapter.

3 (c) Subsection (b) does not apply to if a seller other
4 than a subdivider, developer, or agent of a subdivider or developer
5 ~~[resides on the lot]~~.

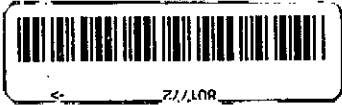
6 ((INSERT 2)) ((INSERT 4)) ((INSERT 5))
7 SECTION 11. Section 232.029(f), Local Government Code, is
8 repealed. 16

9 SECTION 12. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
effect, this Act takes effect September 1, 2007.

LIST OF HOUSE AMENDMENTS PREVIOUSLY UNDER CONSIDERATION

HB3068-Second Reading

<u>AMENDMENT#</u>	<u>AUTHOR</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
1	Guillen	Amendment	Adopted



FLOOR AMENDMENT NO. 1

BY: Guillen

ADOPTED

MAY 02 2007

Robert Hancey
Chief Clerk
House of Representatives

Amend C.S.H.B. No. 3068 as follows:

(1) On page 7, line 24, strike "municipality" and substitute "political subdivisions".

(2) On page 7, line 26, strike "has" and substitute "have".

(3) On page 15, line 26, strike "municipality" and substitute "political subdivisions".

(4) On page 16, line 1, strike "has" and substitute "have".

(5) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly: ((INSERT 1)) cja 3068

SECTION 3 Subchapter A, Chapter 232, Local Government Code, is amended by adding Section 232.011 to read as follows:

Sec. 232.011. AMENDING PLAT. (a) The commissioners court may approve and issue an amending plat if the amending plat is signed by the applicants and filed for one or more of the following purposes:

(1) to correct an error in a course or distance shown on the preceding plat;

(2) to add a course or distance that was omitted on the preceding plat;

(3) to correct an error in a real property description shown on the preceding plat;

(4) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(5) to correct any other type of scrivener or clerical error or omission of the previously approved plat,

(((INSERT 1 CONT'D)))

12

including lot numbers, acreage, street names, and identification
of adjacent recorded plats; or

(6) to correct an error in courses and distances of
lot lines between two adjacent lots if:

(A) both lot owners join in the application for
amending the plat;

(B) neither lot is abolished;

(C) the amendment does not attempt to remove
recorded covenants or restrictions; and

(D) the amendment does not have a material
adverse effect on the property rights of the other owners of the
property that is the subject of the plat.

(b) The amending plat controls over the preceding plat
without the vacation, revision, or cancellation of the preceding
plat.

(c) Notice, a hearing, and the approval of other lot
owners are not required for the filing, recording, or approval
of an amending plat.

((End insert 1))

SECTION 13. Subchapter B, Chapter 232, Local Government
Code, is amended by adding Section 232.044 to read as follows:

Sec. 232.044. AMENDING PLAT. The commissioners court may
approve and issue an amending plat under this subchapter in the
same manner, for the same purposes, and subject to the same
related provisions as provided by Section 232.011. ((End insert 2))

SECTION 1. Section 81.033(b), Local Government Code, is
amended to read as follows:

(b) If approved at an election held in the county for that
purpose, the commissioners court has, in addition to the powers
given to it under this code or other law, all the powers of the
governing body of a Type A general-law municipality, including
the powers contained in Subtitle A, Title 7, except that:

((PAGE 2))

((PAGE 3))

((INSERT 3 CONT'D))

13

1 (1) the commissioners court may not regulate an
2 activity outside the county;

3 (2) the commissioners court may not regulate a tract
4 of land that is appraised as agricultural or open-space land by
5 the appraisal district; and

6 (3) ~~[the commissioners court may not exercise the~~
7 ~~powers of a municipality under Chapter 211 or 213; and~~

8 [+4+] if this code or other law provides for a
9 procedure by which a county exercises a power, the commissioners
10 court must use that procedure. ((end insert 3))

((INSERT 4))

11 SECTION 14. Subchapter C, Chapter 232, Local Government
12 Code, is amended by adding Section 232.081 to read as follows:

13 Sec. 232.081. AMENDING PLAT. The commissioners court may
14 approve and issue an amending plat under this subchapter in the
15 same manner, for the same purposes, and subject to the same
16 related provisions as provided by Section 232.011. ((end insert 4))

((INSERT 5))

17 SECTION 15. Section 16.344, Water Code, is amended by
18 adding Subsections (d), (e), (f), (g) and (h) to read as
19 follows:

20 (d) Notwithstanding Section 16.343(g) or Section
21 16.350(a), a political subdivision may temporarily continue to
22 receive funds under Subchapter K, Chapter 17, if the political
23 subdivision submits a request for temporary continuation of
24 funding and the board determines that:

25 (1) the political subdivision's initial funding
26 application and any amendments for a designated area were
27 reviewed and approved by the board before January 1, 2007;

28 (2) withholding funds would result in an undue
29 hardship for occupants of the property to be served by
30 unreasonably delaying the provision of adequate water or waste
31 water services;

1 (3) withholding funds would result in inefficient use
2 of local, state, or federal funds under the program;

3 (4) the political subdivision has committed to take
4 the necessary and appropriate actions to correct any
5 deficiencies in adoption or enforcement of the model rules
6 within the time designated by the board, but not later than the
7 90th day after the date the board makes the determinations under
8 this subsection;

9 (5) the political subdivision has sufficient
10 safeguards in place to prevent the proliferation of colonias;
11 and

12 (6) during the 30 days after the date the board
13 receives a request under this subsection, the board, after
14 consulting with the attorney general, secretary of state, and
15 commission, has not received an objection from any of those
16 entities to the request for temporary continuation of funding.

17 (e) In applying Subsection (d) to applications for
18 increased financial assistance, the board shall only consider
19 areas that were included in the initial application, except that
20 the board may reconsider the eligibility of areas that were the
21 subject of a facility plan in the initial application and that
22 may be determined to be eligible based on criteria in effect
23 September 1, 2005.

24 (f) The political subdivision shall take necessary and
25 appropriate actions to correct any deficiencies in its adoption
26 and enforcement of the model rules within the time period
27 required by the board, not to exceed the 90-day period described
28 by Subsection (d)(4), and provide evidence of compliance to the
29 board. The board shall discontinue funding unless the board
30 makes a determination based on the evidence provided that the

((INSERT 5 CONT'D))

15

1 political subdivision has demonstrated sufficient compliance to
2 continue funding.

3 Cr (g) Except as provided by Subsections (d) through (f), if
4 the board determines that a county or city that is required to
5 adopt and enforce the model rules is not enforcing the model
6 rules, the board shall discontinue funding for all projects
7 within the county or city that are funded under Subchapter K,
8 Chapter 17.

9 (h) The board may not accept or grant applications for
10 temporary funding under Subsection (d) after June 1, 2009.

11 (i) Subsections (d), (e), (f), (g), ^{and} (h) and this
12 subsection expire September 1, 2009.

((end insert 5))

SECOND READING
ENGROSSMENT

By: Guillen

H.B. No. 3068

A BILL TO BE ENTITLED

AN ACT

relating to the authority and responsibilities of certain political subdivisions in relation to development.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 81.033(b), Local Government Code, is amended to read as follows:

(b) If approved at an election held in the county for that purpose, the commissioners court has, in addition to the powers given to it under this code or other law, all the powers of the governing body of a Type A general-law municipality, including the powers contained in Subtitle A, Title 7, except that:

(1) the commissioners court may not regulate an activity outside the county;

(2) the commissioners court may not regulate a tract of land that is appraised as agricultural or open-space land by the appraisal district; and

(3) ~~[the commissioners court may not exercise the powers of a municipality under Chapter 211 or 213, and~~

~~[(4)]~~ if this code or other law provides for a procedure by which a county exercises a power, the commissioners court must use that procedure.

SECTION 2. Section 212.012, Local Government Code, is amended by amending Subsections (a), (c), (d), (e), (f), (h), and (i) and adding Subsections (j) and (k) to read as follows:

1 (a) Except as provided by Subsection (c), (d), or (j)
2 ~~[Subsection (e)]~~, an entity described by Subsection (b) may not
3 serve or connect any land with water, sewer, electricity, gas, or
4 other utility service unless the entity has been presented with or
5 otherwise holds a certificate applicable to the land issued under
6 Section 212.0115.

7 (c) An entity described by Subsection (b) may serve or
8 connect land with water, sewer, electricity, gas, or other utility
9 service regardless of whether the entity is presented with or
10 otherwise holds a certificate applicable to the land issued under
11 Section 212.0115 if:

12 (1) the land is covered by a development plat approved
13 under Subchapter B or under an ordinance or rule relating to the
14 development plat;

15 (2) the land was first served or connected with
16 service by an entity described by Subsection (b)(1), (b)(2), or
17 (b)(3) before September 1, 1987; or

18 (3) the land was first served or connected with
19 service by an entity described by Subsection (b)(4), (b)(5), or
20 (b)(6) before September 1, 1989~~[, or~~

21 ~~[(4) the municipal authority responsible for~~
22 ~~approving plats issues a certificate stating that:~~

23 ~~[(A) the land:~~

24 ~~[(i) was sold or conveyed to the person~~
25 ~~requesting service by any means of conveyance, including a contract~~
26 ~~for deed or executory contract, before:~~

27 ~~[(a) September 1, 1995, in a county~~

1 ~~defined under Section 232.022(a)(1), or~~

2 ~~[(b) September 1, 2005, in a county~~
3 ~~defined under Section 232.022(a)(2),~~

4 ~~[(ii) is located in a subdivision in which~~
5 ~~the entity has previously provided service,~~

6 ~~[(iii) is located outside the limits of the~~
7 ~~municipality,~~

8 ~~[(iv) is located in a county to which~~
9 ~~Subchapter B, Chapter 232, applies, and~~

10 ~~[(v) is the site of construction of a~~
11 ~~residence, evidenced by at least the existence of a completed~~
12 ~~foundation, that was begun on or before.~~

13 ~~[(a) May 1, 1997, in a county defined~~
14 ~~under Section 232.022(a)(1), or~~

15 ~~[(b) September 1, 2005, in a county~~
16 ~~defined under Section 232.022(a)(2), or~~

17 ~~[(B) the land was not subdivided after September~~
18 ~~1, 1995, in a county defined under Section 232.022(a)(1), or~~
19 ~~September 1, 2005, in a county defined under Section 232.022(a)(2),~~
20 ~~and.~~

21 ~~[(i) water service is available within 750~~
22 ~~feet of the subdivided land, or~~

23 ~~[(ii) water service is available more than~~
24 ~~750 feet from the subdivided land and the extension of water service~~
25 ~~to the land may be feasible, subject to a final determination by the~~
26 ~~water service provider].~~

27 (d) In a county to which Subchapter B, Chapter 232, applies,

1 an entity described by Subsection (b) may serve or connect land with
2 water, sewer, electricity, gas, or other utility service that is
3 located in the extraterritorial jurisdiction of a municipality
4 regardless of whether the entity is presented with or otherwise
5 holds a certificate applicable to the land issued under Section
6 212.0115, if the municipal authority responsible for approving
7 plats issues a certificate stating that:

8 (1) the subdivided land:

9 (A) was sold or conveyed by a subdivider or
10 developer by any means of conveyance, including a contract for deed
11 or executory contract, before:

12 (i) September 1, 1995, in a county defined
13 under Section 232.022(a)(1);

14 (ii) September 1, 1999, in a county defined
15 under Section 232.022(a)(1) if, on August 31, 1999, the subdivided
16 land was located in the extraterritorial jurisdiction of a
17 municipality as determined by Chapter 42; or

18 (iii) September 1, 2005, in a county
19 defined under Section 232.022(a)(2);

20 (B) has not been subdivided after September 1,
21 1995, September 1, 1999, or September 1, 2005, as applicable under
22 Paragraph (A);

23 (C) is the site of construction of a residence,
24 evidenced by at least the existence of a completed foundation, that
25 was begun on or before:

26 (i) May 1, 2003, in a county defined under
27 Section 232.022(a)(1); or

1 (ii) September 1, 2005, in a county defined
2 under Section 232.022(a)(2); and

3 (D) has had adequate sewer services installed to
4 service the lot or dwelling;

5 (2) the subdivided land is a lot of record as defined
6 by Section 232.021(6-a) that is located in a county defined by
7 Section 232.022(a)(1) and has adequate sewer services installed
8 that are fully operable to service the lot or dwelling; or

9 (3) the land was not subdivided after September 1,
10 1995, in a county defined under Section 232.022(a)(1), or September
11 1, 2005, in a county defined under Section 232.022(a)(2), and:

12 (A) water service is available within 750 feet of
13 the subdivided land; or

14 (B) water service is available more than 750 feet
15 from the subdivided land and the extension of water service to the
16 land may be feasible, subject to a final determination by the water
17 service provider.

18 (e) An entity described by Subsection (b) may provide
19 utility service to land described by Subsection (d)(1), (2), or (3)
20 [Subsection (c)(4)(A)] only if the person requesting service:

21 (1) is not the land's subdivider or developer or the
22 subdivider's or developer's agent; and

23 (2) provides to the entity a certificate described by
24 Subsection (d) [(c)(4)(A)].

25 (f) ~~[(c)]~~ A person requesting service may obtain a
26 certificate under Subsection (d)(1), (2), or (3) [Subsection
27 (c)(4)(A)] only if the person is the owner or purchaser of the

1 subdivided land and provides to the municipal authority responsible
2 for approving plats documentation containing [either]:

3 (1) a copy of the means of conveyance or other
4 documents that show that the land was sold or conveyed by a
5 subdivider or developer [to the person requesting service] before
6 September 1, 1995, before September 1, 1999, or before September 1,
7 2005, as applicable under Subsection (d) [, ~~and a notarized~~
8 ~~affidavit by that person that states that construction of a~~
9 ~~residence on the land, evidenced by at least the existence of a~~
10 ~~completed foundation, was begun on or before May 1, 1997, or on or~~
11 ~~before September 1, 2005, as applicable]; [or]~~

12 (2) for a certificate issued under Subsection (d)(1),
13 a notarized affidavit by the person requesting service that states
14 that ~~[the property was sold or conveyed to that person before~~
15 ~~September 1, 1995, or before September 1, 2005, as applicable, and~~
16 ~~that]~~ construction of a residence on the land, evidenced by at least
17 the existence of a completed foundation, was begun on or before May
18 1, 2003, in a county defined by Section 232.022(a)(1) or September
19 1, 2005, in a county defined by Section 232.022(a)(2), and the
20 request for utility connection or service is to connect or serve a
21 residence described by Subsection (d)(1)(C);

22 (3) a notarized affidavit by the person requesting
23 service that states that the subdivided land has not been further
24 subdivided after September 1, 1995, September 1, 1999, or September
25 1, 2005, as applicable under Subsection (d); and

26 (4) evidence that adequate sewer service or facilities
27 have been installed and are fully operable to service the lot or

1 dwelling from an entity described by Subsection (b) or the
2 authorized agent responsible for the licensing or permitting of
3 on-site sewage facilities under Chapter 366, Health and Safety
4 Code. [May 1, 1997, or on or before September 1, 2005, as
5 applicable.

6 ~~[(f) A person requesting service may obtain a certificate~~
7 ~~under Subsection (c)(4)(B) only if the person provides to the~~
8 ~~municipal authority responsible for approving plats an affidavit~~
9 ~~that states that the property was not sold or conveyed to that~~
10 ~~person from a subdivider or the subdivider's agent after September~~
11 ~~1, 1995, or after September 1, 2005, as applicable.]~~

12 (h) This section may not be construed to abrogate any civil
13 or criminal proceeding or prosecution or to waive any penalty
14 against a subdivider or developer for a violation of a state or
15 local law, regardless of the date on which the violation occurred.

16 (i) In this section:

17 (1) "Developer" has the meaning assigned by Section
18 232.021.

19 (2) "Foundation" means the lowest division of a
20 residence, usually consisting of a masonry slab or a pier and beam
21 structure, that is partly or wholly below the surface of the ground
22 and on which the residential structure rests.

23 (3) ~~[(2)]~~ "Subdivider" has the meaning assigned by
24 Section 232.021.

25 (j) Except as provided by Subsection (k), this section does
26 not prohibit a water or sewer utility from providing in a county
27 defined by Section 232.022(a)(1) water or sewer utility connection

1 or service to a residential dwelling that:

2 (1) is provided water or wastewater facilities under
3 or in conjunction with a federal or state funding program designed
4 to address inadequate water or wastewater facilities in colonias or
5 to residential lots located in a county described by Section
6 232.022(a)(1);

7 (2) is an existing dwelling identified as an eligible
8 recipient for funding by the funding agency providing adequate
9 water and wastewater facilities or improvements;

10 (3) when connected, will comply with the minimum state
11 standards for both water and sewer facilities and as prescribed by
12 the model subdivision rules adopted under Section 16.343, Water
13 Code; and

14 (4) is located in a project for which the political
15 subdivisions with jurisdiction over the project or the approval of
16 plats within the project area have approved the improvement project
17 by order, resolution, or interlocal agreement under Chapter 791,
18 Government Code.

19 (k) A utility may not serve any subdivided land with water
20 utility connection or service under Subsection (j) unless the
21 entity receives a determination that adequate sewer services have
22 been installed to service the lot or dwelling from the municipal
23 authority responsible for approving plats, an entity described by
24 Subsection (b), or the authorized agent responsible for the
25 licensing or permitting of on-site sewage facilities pursuant to
26 Chapter 366, Health and Safety Code.

27 SECTION 3. Subchapter A, Chapter 232, Local Government

Code, is amended by adding Section 232.011 to read as follows:

Sec. 232.011. AMENDING PLAT. (a) The commissioners court may approve and issue an amending plat if the amending plat is signed by the applicants and filed for one or more of the following purposes:

(1) to correct an error in a course or distance shown on the preceding plat;

(2) to add a course or distance that was omitted on the preceding plat;

(3) to correct an error in a real property description shown on the preceding plat;

(4) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(5) to correct any other type of scrivener or clerical error or omission of the previously approved plat, including lot numbers, acreage, street names, and identification of adjacent recorded plats; or

(6) to correct an error in courses and distances of lot lines between two adjacent lots if:

(A) both lot owners join in the application for amending the plat;

(B) neither lot is abolished;

(C) the amendment does not attempt to remove recorded covenants or restrictions; and

(D) the amendment does not have a material adverse effect on the property rights of the other owners of the

1 property that is the subject of the plat.

2 (b) The amending plat controls over the preceding plat
3 without the vacation, revision, or cancellation of the preceding
4 plat.

5 (c) Notice, a hearing, and the approval of other lot owners
6 are not required for the filing, recording, or approval of an
7 amending plat.

8 SECTION 4. Section 232.021, Local Government Code, is
9 amended by amending Subdivision (2) and adding Subdivisions (2-a),
10 (2-b), and (6-a) to read as follows:

11 (2) "Common promotional plan" means any plan or scheme
12 of operation undertaken by a single subdivider or developer or a
13 group of subdividers or developers acting in concert, either
14 personally or through an agent, to offer for sale or lease lots when
15 the land is:

16 (A) contiguous or part of the same area of land;
17 or

18 (B) known, designated, or advertised as a common
19 unit or by a common name.

20 (2-a) "Develop" means a structural improvement or
21 man-made change to a lot intended for residential use undertaken to
22 improve, enhance, or otherwise make suitable real property for
23 purposes of sale, resale, or lease.

24 (2-b) "Developer" means a person who owns any interest
25 in real property and directly or indirectly develops real property
26 in the ordinary course of business or as part of a common
27 promotional plan.

1 (6-a) "Lot of record" means:

2 (A) a lot, the boundaries of which were
3 established by a plat recorded in the office of the county clerk
4 before September 1, 1989, that has not been subdivided after
5 September 1, 1989; or

6 (B) a lot, the boundaries of which were
7 established by a metes and bounds description in a deed of
8 conveyance, a contract of sale, or other executory contract to
9 convey real property that has been legally executed and recorded in
10 the office of the county clerk before September 1, 1989, that has
11 not been subdivided after September 1, 1989.

12 SECTION 5. Section 232.024(b), Local Government Code, is
13 amended to read as follows:

14 (b) If any part of a plat applies to land intended for
15 residential housing and any part of that land lies in a floodplain,
16 the commissioners court shall not approve the plat unless:

17 (1) the subdivision is developed in compliance with
18 the minimum requirements of the National Flood Insurance Program
19 and local regulations or orders adopted under Section 16.315, Water
20 Code; and

21 (2) the plat evidences a restrictive covenant
22 prohibiting [as required by this subsection. The restrictive
23 covenant shall prohibit] the construction of residential housing in
24 any area of the subdivision that is in a floodplain unless the
25 housing is developed in compliance with the minimum requirements of
26 [qualifies for insurance under] the National Flood Insurance
27 Program and local regulations or orders adopted under Section

1 16.315, Water Code [~~Act of 1968 (42 U.S.C. Sections 4001 through~~
2 ~~4127))~~].

3 SECTION 6. Section 232.028(b), Local Government Code, is
4 amended to read as follows:

5 (b) On the commissioners court's own motion or on the
6 written request of a subdivider, an owner or resident of a lot in a
7 subdivision, or an entity that provides a utility service, the
8 commissioners court shall make the following determinations
9 regarding the land in which the entity or commissioners court is
10 interested that is located within the jurisdiction of the county:

11 (1) whether a plat has been prepared and whether it has
12 been reviewed and approved by the commissioners court;

13 (2) whether water service facilities have been
14 constructed or installed to service the lot or subdivision under
15 Section 232.023 and are fully operable;

16 (3) whether sewer service facilities have been
17 constructed or installed to service the lot or subdivision under
18 Section 232.023 and are fully operable, or if septic systems are
19 used, whether the lot is served by a permitted on-site sewage
20 facility or lots in the subdivision can be adequately and legally
21 served by septic systems under Section 232.023; and

22 (4) whether electrical and gas facilities, if
23 available, have been constructed or installed to service the lot or
24 subdivision under Section 232.023.

25 SECTION 7. Section 232.029, Local Government Code, is
26 amended by amending Subsections (b), (c), (d), (e), and (i) and
27 adding Subsections (k) and (l) to read as follows:

(b) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Sections 232.028(b)(2) and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer services have been installed to service the lot or subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider or developer [~~to the person requesting service~~] by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A); [~~is located in a subdivision in which the utility has previously provided service, and~~]

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun[+

~~[(i) on or before May 1, 1997, or~~

~~[(ii)]~~ on or before May 1, 2003; and

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling~~[, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42]; or~~

(3) [(2)] the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land described by Subsection (c)(1), (2), or (3) only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the utility a certificate described by Subsection (c) [(e)(1)].

(e) A person requesting service may obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing ~~[either]:~~

(1) ~~[documentation containing:~~

~~[(A)]~~ a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);

~~(2) [to the person requesting service:~~

~~[(i) before September 1, 1995, or~~

~~[(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42, and~~

~~[(B)]~~ a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun~~+~~

~~[(i) on or before May 1, 1997, or~~

~~[(ii)]~~ on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by Subsection (c)(1)(C);

~~(3) [if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42, or~~

~~[(2)]~~ a notarized affidavit by the person requesting

1 service that states that the subdivided land has not been further
2 subdivided after [+

3 [~~(A) the property was sold or conveyed to that~~
4 ~~person.~~

5 [~~(i) before~~] September 1, 1995, [+] or
6 [~~(ii) before~~] September 1, 1999, as
7 applicable under Subsection (c); and

8 (4) evidence that adequate sewer service or facilities
9 have been installed and are fully operable to service the lot or
10 dwelling from an entity described by Section 232.021(14) or the
11 authorized agent responsible for the licensing or permitting of
12 on-site sewage facilities under Chapter 366, Health and Safety Code
13 ~~[if the subdivided land on August 31, 1999, was located in the~~
14 ~~extraterritorial jurisdiction of a municipality as determined by~~
15 ~~Chapter 42; and~~

16 [~~(B) construction of a residence on the land,~~
17 ~~evidenced by at least the existence of a completed foundation, was~~
18 ~~begun.~~

19 [~~(i) on or before May 1, 1997, or~~
20 [~~(ii) on or before May 1, 2003, if the~~
21 ~~subdivided land on August 31, 1999, was located in the~~
22 ~~extraterritorial jurisdiction of a municipality as determined by~~
23 ~~Chapter 42].~~

24 (i) The prohibition established by this section shall not
25 prohibit a water, sewer, [an] electric, or gas utility from
26 providing water, sewer, electric, or gas utility connection or
27 service to a lot [~~being~~] sold, conveyed, or purchased through a

1 contract for deed or executory contract or other device by a
2 subdivider or developer prior to July 1, 1995, or September 1, 1999,
3 if on August 31, 1999, the subdivided land was located in the
4 extraterritorial jurisdiction of a municipality that has adequate
5 sewer services installed that are fully operable to service the lot
6 ~~[which is located within a subdivision where the utility has~~
7 ~~previously established service]~~ and was subdivided by a plat
8 approved prior to September 1, 1989.

9 (k) Except as provided by Subsection (l), this section does
10 not prohibit a water or sewer utility from providing water or sewer
11 utility connection or service to a residential dwelling that:

12 (1) is provided water or wastewater facilities under
13 or in conjunction with a federal or state funding program designed
14 to address inadequate water or wastewater facilities in colonias or
15 to residential lots located in a county described by Section
16 232.022(a)(1);

17 (2) is an existing dwelling identified as an eligible
18 recipient for funding by the funding agency providing adequate
19 water and wastewater facilities or improvements;

20 (3) when connected, will comply with the minimum state
21 standards for both water and sewer facilities and as prescribed by
22 the model subdivision rules adopted under Section 16.343, Water
23 Code; and

24 (4) is located in a project for which the political
25 subdivisions with jurisdiction over the project or the approval of
26 plats within the project area have approved the improvement project
27 by order, resolution, or interlocal agreement under Chapter 791,

1 Government Code, if applicable.

2 (1) A utility may not serve any subdivided land with water
3 utility connection or service under Subsection (k) unless the
4 entity receives a determination from the county commissioners court
5 under Section 232.028(b)(3) that adequate sewer services have been
6 installed to service the lot or dwelling.

7 SECTION 8. Sections 232.031(a) and (b), Local Government
8 Code, are amended to read as follows:

9 (a) Except as provided by Subsection (d), a subdivider or
10 developer may not sell or lease land in a subdivision first platted
11 or replatted after July 1, 1995, unless the subdivision plat is
12 approved by the commissioners court in accordance with Section
13 232.024.

14 (b) Not later than the 30th day after the date a lot is sold,
15 a subdivider or developer shall record with the county clerk all
16 sales contracts, including the attached disclosure statement
17 required by Section 232.033, leases, and any other documents that
18 convey an interest in the subdivided land.

19 SECTION 9. Sections 232.035(a) and (b), Local Government
20 Code, are amended to read as follows:

21 (a) A subdivider or developer or an agent of a subdivider or
22 developer may not cause, suffer, allow, or permit a lot to be sold
23 in a subdivision if the subdivision has not been platted as required
24 by this subchapter.

25 (b) Notwithstanding any other remedy at law or equity, a
26 subdivider or developer or an agent of a subdivider or developer may
27 not cause, suffer, allow, or permit any part of a subdivision over

1 which the subdivider or developer or an agent of the subdivider or
2 developer has control, or a right of ingress and egress, to become a
3 public health nuisance as defined by Section 341.011, Health and
4 Safety Code.

5 SECTION 10. Section 232.036(a), Local Government Code, is
6 amended to read as follows:

7 (a) A subdivider or developer commits an offense if the
8 subdivider or developer knowingly fails to file a plat or replat
9 required by this subchapter. An offense under this subsection is a
10 Class A misdemeanor.

11 SECTION 11. Section 232.038(a), Local Government Code, is
12 amended to read as follows:

13 (a) Except as provided by Subsection (b), a person who has
14 purchased or is purchasing a lot after July 1, 1995, in a
15 subdivision for residential purposes that does not have water and
16 sewer services as required by this subchapter and is located in an
17 economically distressed area, as defined by Section 17.921, Water
18 Code, from a subdivider or developer, may bring suit in the district
19 court in which the property is located or in a district court in
20 Travis County to:

21 (1) declare the sale of the property void and require
22 the subdivider or developer to return the purchase price of the
23 property; and

24 (2) recover from the subdivider or developer:

25 (A) the market value of any permanent
26 improvements the person placed on the property;

27 (B) actual expenses incurred as a direct result.

1 of the failure to provide adequate water and sewer facilities;

2 (C) court costs; and

3 (D) reasonable attorney's fees.

4 SECTION 12. Sections 232.040(a), (b), and (c), Local
5 Government Code, are amended to read as follows:

6 (a) A subdivision plat must accurately reflect the
7 subdivision as it develops. If there is any change, either by the
8 intentional act of the subdivider or developer or by the forces of
9 nature, including changes in the size or dimension of lots or the
10 direction or condition of the roads, a plat must be revised in
11 accordance with Section 232.041.

12 (b) Except as provided by Subsection (c), a lot in a
13 subdivision may not be sold if the lot lacks water and sewer
14 services as required by this subchapter unless the lot is platted or
15 replatted as required by this subchapter. A subdivider or
16 developer or agent of a subdivider or developer may not transfer a
17 lot through an executory contract or other similar conveyance to
18 evade the requirements of this subchapter. The prohibition in this
19 subsection includes the sale of a lot:

20 (1) by a subdivider or developer who regains
21 possession of a lot previously exempt under Subsection (c) through
22 the exercise of a remedy described in Section 5.061, Property Code;
23 or

24 (2) for which it is shown at a proceeding brought in
25 the district court in which the property is located that the sale of
26 a lot otherwise exempt under Subsection (c) was made for the purpose
27 of evading the requirements of this subchapter.

1 (c) Subsection (b) does not apply to ~~[if]~~ a seller other
2 than a subdivider, developer, or agent of a subdivider or developer
3 ~~[resides on the lot]~~.

4 SECTION 13. Subchapter B, Chapter 232, Local Government
5 Code, is amended by adding Section 232.044 to read as follows:

6 Sec. 232.044. AMENDING PLAT. The commissioners court may
7 approve and issue an amending plat under this subchapter in the same
8 manner, for the same purposes, and subject to the same related
9 provisions as provided by Section 232.011.

10 SECTION 14. Subchapter C, Chapter 232, Local Government
11 Code, is amended by adding Section 232.081 to read as follows:

12 Sec. 232.081. AMENDING PLAT. The commissioners court may
13 approve and issue an amending plat under this subchapter in the same
14 manner, for the same purposes, and subject to the same related
15 provisions as provided by Section 232.011.

16 SECTION 15. Section 16.344, Water Code, is amended by
17 adding Subsections (d), (e), (f), (g), (h), and (i) to read as
18 follows:

19 (d) Notwithstanding Section 16.343(g) or Section 16.350(a),
20 a political subdivision may temporarily continue to receive funds
21 under Subchapter K, Chapter 17, if the political subdivision
22 submits a request for temporary continuation of funding and the
23 board determines that:

24 (1) the political subdivision's initial funding
25 application and any amendments for a designated area were reviewed
26 and approved by the board before January 1, 2007;

27 (2) withholding funds would result in an undue

1 hardship for occupants of the property to be served by unreasonably
2 delaying the provision of adequate water or waste water services;

3 (3) withholding funds would result in inefficient use
4 of local, state, or federal funds under the program;

5 (4) the political subdivision has committed to take
6 the necessary and appropriate actions to correct any deficiencies
7 in adoption or enforcement of the model rules within the time
8 designated by the board, but not later than the 90th day after the
9 date the board makes the determinations under this subsection;

10 (5) the political subdivision has sufficient
11 safeguards in place to prevent the proliferation of colonias; and

12 (6) during the 30 days after the date the board
13 receives a request under this subsection, the board, after
14 consulting with the attorney general, secretary of state, and
15 commission, has not received an objection from any of those
16 entities to the request for temporary continuation of funding.

17 (e) In applying Subsection (d) to applications for
18 increased financial assistance, the board shall only consider areas
19 that were included in the initial application, except that the
20 board may reconsider the eligibility of areas that were the subject
21 of a facility plan in the initial application and that may be
22 determined to be eligible based on criteria in effect September 1,
23 2005.

24 (f) The political subdivision shall take necessary and
25 appropriate actions to correct any deficiencies in its adoption and
26 enforcement of the model rules within the time period required by
27 the board, not to exceed the 90-day period described by Subsection

1 (d)(4), and provide evidence of compliance to the board. The board
2 shall discontinue funding unless the board makes a determination
3 based on the evidence provided that the political subdivision has
4 demonstrated sufficient compliance to continue funding.

5 (g) Except as provided by Subsections (d) through (f), if
6 the board determines that a county or city that is required to adopt
7 and enforce the model rules is not enforcing the model rules, the
8 board shall discontinue funding for all projects within the county
9 or city that are funded under Subchapter K, Chapter 17.

10 (h) The board may not accept or grant applications for
11 temporary funding under Subsection (d) after June 1, 2009.

12 (i) Subsections (d), (e), (f), (g), and (h) and this
13 subsection expire September 1, 2009.

14 SECTION 16. Section 232.029(f), Local Government Code, is
15 repealed.

16 SECTION 17. This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2007.

LIST OF HOUSE AMENDMENTS PREVIOUSLY UNDER CONSIDERATION

HB3068-Third Reading

<u>AMENDMENT#</u>	<u>AUTHOR</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
1	Guillen	Amendment	Adopted

FLOOR AMENDMENT NO. 1

BY:

Guillen
Salton



ADOPTED

MAY 03 2007

Robert Hancey
Chief Clerk
House of Representatives

Amend H.B. No. ³⁰⁶⁸ on third reading as follows:

- ✓ (1) Strike SECTION 1 of the bill.
- ✓ (2) Strike SECTION 3 of the bill.
- ✓ (3) Strike SECTIONS 13, 14, and 15 of the bill.
- ✓ (4) Insert the following appropriately numbered SECTION to

the bill:

((Insert A)) CAA

SECTION 1x. Section 81.033(b), Local Government Code, is amended to read as follows:

(b) If approved at an election held in the county for that purpose, the commissioners court has, in addition to the powers given to it under this code or other law, all the powers of the governing body of a Type A general-law municipality, including the powers contained in Subtitle A, Title 7, except that:

RP (1) the commissioners court may not regulate an activity outside the county;

(2) the commissioners court may not regulate a tract of land that is appraised as agricultural or open-space land by the appraisal district;

(3) the commissioners court may not exercise the powers of a municipality under Chapter 211 [~~or 213~~]; and

(4) if this code or other law provides for a procedure by which a county exercises a power, the commissioners court must use that procedure.

✓ (5) Insert the following appropriately numbered SECTION to the bill:

((Insert B))

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SECTION 3x. Chapter 231, Local Government Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. ZONING AROUND FALCON LAKE

((B cont))

P Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

PIP (1) the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated area of Zapata County located within 25,000 feet of:

(1) the project boundary line for Falcon Lake; and

(2) the Rio Grande river.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the area subject to this subchapter. The commission is comprised of:

(1) four residents of Zapata County, with one resident from each of the county commissioners' precincts, appointed by that precinct's commissioner; and

(2) a person, who shall serve as the commission's presiding officer, appointed by the county judge of Zapata County.

((1 B cont))

P

(b) Except as provided by Subsection (c), the members of the commission shall be appointed for two-year terms that expire February 1 of each odd-numbered year.

(c) The terms of the initial members of the commission expire on February 1st of the first February in an odd-numbered year following their appointment.

(d) The commissioners court of Zapata County may employ staff for the commission to use in performing the commission's functions.

AND

Sec. 231.254. COMMISSION STUDY & REPORT; HEARING. (a) At the request of the commissioners court of Zapata County the commission shall, or on the lake planning commission's own initiative the commission may, conduct studies of the area subject to this subchapter and prepare reports to advise the commissioner's court about matters affecting that area, including any need for zoning regulations in that area.

(b) Before the commission may prepare a report, the commission must hold a public hearing in which members of the public may offer testimony regarding any subject to be included in the commission's report. The commission shall provide notice of the hearing as required by the commissioner's court.

Sec. 231.255. ZONING REGULATIONS. After receiving a report from the lake planning commission under Section 231.254, the commissioner's court of Zapata County may adopt zoning regulations for the area subject to this subchapter and in accordance with the report that regulate:

RAY

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;

Y

R

((B, cont.))

PP (5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

PP (6) the placement of water and sewage facilities, parks, and other public requirements. ((end B))

✓(6) Insert the following appropriately numbered SECTION to the bill: ((insert C))

SECTION 14. Section 16.344, Water Code, is amended by adding Subsections (d), (e), (f), (g)^(h) and (i) to read as follows: CA- ((MSE))

(d) Notwithstanding Section 16.343(g) or Section 16.350(a), a political subdivision may temporarily continue to receive funds under Subchapter K, Chapter 17, if the political subdivision submits a request for temporary continuation of funding and the board determines that:

PP (1) the political subdivision's initial funding application and any amendments for a designated area were reviewed and approved by the board before January 1, 2007;

(2) withholding funds would result in an undue hardship for occupants of the property to be served by unreasonably delaying the provision of adequate water or waste water services;

(3) withholding funds would result in inefficient use of local, state, or federal funds under the program;

(4) the political subdivision has committed to take the necessary and appropriate actions to correct any deficiencies in adoption or enforcement of the model rules within the time designated by the board, but not later than the 90th day after the date the board makes the determinations under this subsection;

(((cont.))

PP

(5) the political subdivision has sufficient safeguards in place to prevent the proliferation of colonias; and

(6) during the 30 days after the date the board receives a request under this subsection, the board, after consulting with the attorney general, secretary of state, and commission, has not received an objection from any of those entities to the request for temporary continuation of funding.

(e) In applying Subsection (d) to applications for increased financial assistance, the board shall only consider areas that were included in the initial application, except that the board may reconsider the eligibility of areas that were the subject of a facility plan in the initial application and that may be determined to be eligible based on criteria in effect September 1, 2005.

(f) The political subdivision shall take necessary and appropriate actions to correct any deficiencies in its adoption and enforcement of the model rules within the time period ^{11/01/05} required by the board, not to exceed the 90-day period described by Subsection (d)(4), and provide evidence of compliance to the board. The board shall discontinue funding unless the board makes a determination based on the evidence provided that the political subdivision has demonstrated sufficient compliance to continue funding.

(g) Except as provided by Subsections (d) through (f), if the board determines that a county or city that is required to adopt and enforce the model rules is not enforcing the model rules, the board shall discontinue funding for all projects within the county or city that are funded under Subchapter K, Chapter 17.

1 (h) The board may not accept or grant applications for
2 temporary funding under Subsection (d) after June 1, 2009.

3 (i) Subsections (d), (e), (f), (g), ^{and} (h) and this
4 subsection expire September 1, 2009. ((and C))

5 ✓ (7) Insert the following appropriately numbered SECTION to
6 the bill: ((insert D)) na

7 SECTION 13 Subchapter B, Chapter 412, Local Government
8 Code, is amended by adding Section 412.017 to read as follows:

9 Sec. 412.017. WATER SUPPLY AND SEWAGE SYSTEM FOR CERTAIN
10 BORDER COUNTIES. (a) This section applies only to a county:

11 TPP (1) that is located adjacent to an international
12 border; and

13 (2) in which a military installation is located.

14 (b) The commissioners court of a county to which this
15 section applies may acquire, construct, or operate a water
16 supply system or sewage system to serve:

17 (1) unincorporated areas of the county; and

18 (2) areas initially included in a municipality on or
19 after September 1, 2007, in which the municipality does not
20 provide water or sewer services.

21 (c) The county may enter a management or lease agreement
22 with another public or private entity for the operation of a
23 county water or sewage system acquired or constructed under this
24 section.

25 (d) The county may apply for and receive grants or other
26 assistance from a state or federal governmental entity to
27 implement this section.

28 (e) The county may own, operate, or maintain a water or
29 sewer utility in the same manner as a municipality under Chapter
30 402.

1 P (f) A county may not construct, operate, or maintain a
2 water supply system or sewage system in an area previously
3 served by the county's water supply or sewage system after the
4 area is annexed by a municipality and the municipality begins
5 providing to the area water or sewer services previously
6 provided by the county. *((end 011))*

7 ✓ (8) Renumber subsequent SECTIONS of the bill accordingly.

HOUSE ENGROSSMENT

By: Guillen

H.B. No. 3068

A BILL TO BE ENTITLED

AN ACT

relating to the authority and responsibilities of certain political subdivisions in relation to development.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 81.033(b), Local Government Code, is amended to read as follows:

(b) If approved at an election held in the county for that purpose, the commissioners court has, in addition to the powers given to it under this code or other law, all the powers of the governing body of a Type A general-law municipality, including the powers contained in Subtitle A, Title 7, except that:

(1) the commissioners court may not regulate an activity outside the county;

(2) the commissioners court may not regulate a tract of land that is appraised as agricultural or open-space land by the appraisal district;

(3) the commissioners court may not exercise the powers of a municipality under Chapter 211 [~~or 213~~]; and

(4) if this code or other law provides for a procedure by which a county exercises a power, the commissioners court must use that procedure.

SECTION 2. Section 212.012, Local Government Code, is amended by amending Subsections (a), (c), (d), (e), (f), (h), and (i) and adding Subsections (j) and (k) to read as follows:

1 (a) Except as provided by Subsection (c), (d), or (j)
2 ~~[Subsection (c)]~~, an entity described by Subsection (b) may not
3 serve or connect any land with water, sewer, electricity, gas, or
4 other utility service unless the entity has been presented with or
5 otherwise holds a certificate applicable to the land issued under
6 Section 212.0115.

7 (c) An entity described by Subsection (b) may serve or
8 connect land with water, sewer, electricity, gas, or other utility
9 service regardless of whether the entity is presented with or
10 otherwise holds a certificate applicable to the land issued under
11 Section 212.0115 if:

12 (1) the land is covered by a development plat approved
13 under Subchapter B or under an ordinance or rule relating to the
14 development plat;

15 (2) the land was first served or connected with
16 service by an entity described by Subsection (b)(1), (b)(2), or
17 (b)(3) before September 1, 1987; or

18 (3) the land was first served or connected with
19 service by an entity described by Subsection (b)(4), (b)(5), or
20 (b)(6) before September 1, 1989~~[, or~~

21 ~~[(4) the municipal authority responsible for~~
22 ~~approving plats issues a certificate stating that:~~

23 ~~[(A) the land:~~

24 ~~[(i) was sold or conveyed to the person~~
25 ~~requesting service by any means of conveyance, including a contract~~
26 ~~for deed or executory contract, before:~~

27 ~~[(a) September 1, 1995, in a county~~

1 ~~defined under Section 232.022(a)(1), or~~
2 ~~[(b) September 1, 2005, in a county~~
3 ~~defined under Section 232.022(a)(2),~~
4 ~~[(ii) is located in a subdivision in which~~
5 ~~the entity has previously provided service,~~
6 ~~[(iii) is located outside the limits of the~~
7 ~~municipality,~~
8 ~~[(iv) is located in a county to which~~
9 ~~Subchapter B, Chapter 232, applies, and~~
10 ~~[(v) is the site of construction of a~~
11 ~~residence, evidenced by at least the existence of a completed~~
12 ~~foundation, that was begun on or before.~~
13 ~~[(a) May 1, 1997, in a county defined~~
14 ~~under Section 232.022(a)(1), or~~
15 ~~[(b) September 1, 2005, in a county~~
16 ~~defined under Section 232.022(a)(2), or~~
17 ~~[(B) the land was not subdivided after September~~
18 ~~1, 1995, in a county defined under Section 232.022(a)(1), or~~
19 ~~September 1, 2005, in a county defined under Section 232.022(a)(2),~~
20 ~~and.~~
21 ~~[(i) water service is available within 750~~
22 ~~feet of the subdivided land, or~~
23 ~~[(ii) water service is available more than~~
24 ~~750 feet from the subdivided land and the extension of water service~~
25 ~~to the land may be feasible, subject to a final determination by the~~
26 ~~water service provider].~~

27 (d) In a county to which Subchapter B, Chapter 232, applies,

1 an entity described by Subsection (b) may serve or connect land with
2 water, sewer, electricity, gas, or other utility service that is
3 located in the extraterritorial jurisdiction of a municipality
4 regardless of whether the entity is presented with or otherwise
5 holds a certificate applicable to the land issued under Section
6 212.0115, if the municipal authority responsible for approving
7 plats issues a certificate stating that:

8 (1) the subdivided land:

9 (A) was sold or conveyed by a subdivider or
10 developer by any means of conveyance, including a contract for deed
11 or executory contract, before:

12 (i) September 1, 1995, in a county defined
13 under Section 232.022(a)(1);

14 (ii) September 1, 1999, in a county defined
15 under Section 232.022(a)(1) if, on August 31, 1999, the subdivided
16 land was located in the extraterritorial jurisdiction of a
17 municipality as determined by Chapter 42; or

18 (iii) September 1, 2005, in a county
19 defined under Section 232.022(a)(2);

20 (B) has not been subdivided after September 1,
21 1995, September 1, 1999, or September 1, 2005, as applicable under
22 Paragraph (A);

23 (C) is the site of construction of a residence,
24 evidenced by at least the existence of a completed foundation, that
25 was begun on or before:

26 (i) May 1, 2003, in a county defined under
27 Section 232.022(a)(1); or

1 (ii) September 1, 2005, in a county defined
2 under Section 232.022(a)(2); and

3 (D) has had adequate sewer services installed to
4 service the lot or dwelling;

5 (2) the subdivided land is a lot of record as defined
6 by Section 232.021(6-a) that is located in a county defined by
7 Section 232.022(a)(1) and has adequate sewer services installed
8 that are fully operable to service the lot or dwelling; or

9 (3) the land was not subdivided after September 1,
10 1995, in a county defined under Section 232.022(a)(1), or September
11 1, 2005, in a county defined under Section 232.022(a)(2), and:

12 (A) water service is available within 750 feet of
13 the subdivided land; or

14 (B) water service is available more than 750 feet
15 from the subdivided land and the extension of water service to the
16 land may be feasible, subject to a final determination by the water
17 service provider.

18 (e) An entity described by Subsection (b) may provide
19 utility service to land described by Subsection (d)(1), (2), or (3)
20 [Subsection (c)(4)(A)] only if the person requesting service:

21 (1) is not the land's subdivider or developer or the
22 subdivider's or developer's agent; and

23 (2) provides to the entity a certificate described by
24 Subsection (d) [(c)(4)(A)].

25 (f) [(e)] A person requesting service may obtain a
26 certificate under Subsection (d)(1), (2), or (3) [Subsection
27 (c)(4)(A)] only if the person is the owner or purchaser of the

1 subdivided land and provides to the municipal authority responsible
2 for approving plats documentation containing ~~[either]:~~

3 (1) a copy of the means of conveyance or other
4 documents that show that the land was sold or conveyed by a
5 subdivider or developer ~~[to the person requesting service]~~ before
6 September 1, 1995, before September 1, 1999, or before September 1,
7 2005, as applicable under Subsection (d) ~~[, and a notarized~~
8 ~~affidavit by that person that states that construction of a~~
9 ~~residence on the land, evidenced by at least the existence of a~~
10 ~~completed foundation, was begun on or before May 1, 1997, or on or~~
11 ~~before September 1, 2005, as applicable]; [or]~~

12 (2) for a certificate issued under Subsection (d)(1),
13 a notarized affidavit by the person requesting service that states
14 that ~~[the property was sold or conveyed to that person before~~
15 ~~September 1, 1995, or before September 1, 2005, as applicable, and~~
16 ~~that]~~ construction of a residence on the land, evidenced by at least
17 the existence of a completed foundation, was begun on or before May
18 1, 2003, in a county defined by Section 232.022(a)(1) or September
19 1, 2005, in a county defined by Section 232.022(a)(2), and the
20 request for utility connection or service is to connect or serve a
21 residence described by Subsection (d)(1)(C);

22 (3) a notarized affidavit by the person requesting
23 service that states that the subdivided land has not been further
24 subdivided after September 1, 1995, September 1, 1999, or September
25 1, 2005, as applicable under Subsection (d); and

26 (4) evidence that adequate sewer service or facilities
27 have been installed and are fully operable to service the lot or

1 dwelling from an entity described by Subsection (b) or the
2 authorized agent responsible for the licensing or permitting of
3 on-site sewage facilities under Chapter 366, Health and Safety
4 Code. ~~[May 1, 1997, or on or before September 1, 2005, as~~
5 ~~applicable.~~

6 ~~[(f) A person requesting service may obtain a certificate~~
7 ~~under Subsection (c)(4)(B) only if the person provides to the~~
8 ~~municipal authority responsible for approving plats an affidavit~~
9 ~~that states that the property was not sold or conveyed to that~~
10 ~~person from a subdivider or the subdivider's agent after September~~
11 ~~1, 1995, or after September 1, 2005, as applicable.]~~

12 (h) This section may not be construed to abrogate any civil
13 or criminal proceeding or prosecution or to waive any penalty
14 against a subdivider or developer for a violation of a state or
15 local law, regardless of the date on which the violation occurred.

16 (i) In this section:

17 (1) "Developer" has the meaning assigned by Section
18 232.021.

19 (2) "Foundation" means the lowest division of a
20 residence, usually consisting of a masonry slab or a pier and beam
21 structure, that is partly or wholly below the surface of the ground
22 and on which the residential structure rests.

23 (3) ~~[(2)]~~ "Subdivider" has the meaning assigned by
24 Section 232.021.

25 (j) Except as provided by Subsection (k), this section does
26 not prohibit a water or sewer utility from providing in a county
27 defined by Section 232.022(a)(1) water or sewer utility connection

1 or service to a residential dwelling that:

2 (1) is provided water or wastewater facilities under
3 or in conjunction with a federal or state funding program designed
4 to address inadequate water or wastewater facilities in colonias or
5 to residential lots located in a county described by Section
6 232.022(a)(1);

7 (2) is an existing dwelling identified as an eligible
8 recipient for funding by the funding agency providing adequate
9 water and wastewater facilities or improvements;

10 (3) when connected, will comply with the minimum state
11 standards for both water and sewer facilities and as prescribed by
12 the model subdivision rules adopted under Section 16.343, Water
13 Code; and

14 (4) is located in a project for which the political
15 subdivisions with jurisdiction over the project or the approval of
16 plats within the project area have approved the improvement project
17 by order, resolution, or interlocal agreement under Chapter 791,
18 Government Code.

19 (k) A utility may not serve any subdivided land with water
20 utility connection or service under Subsection (j) unless the
21 entity receives a determination that adequate sewer services have
22 been installed to service the lot or dwelling from the municipal
23 authority responsible for approving plats, an entity described by
24 Subsection (b), or the authorized agent responsible for the
25 licensing or permitting of on-site sewage facilities pursuant to
26 Chapter 366, Health and Safety Code.

27 SECTION 3. Chapter 231, Local Government Code, is amended

by adding Subchapter L to read as follows:

SUBCHAPTER L. ZONING AROUND FALCON LAKE

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated area of Zapata County located within 25,000 feet of:

(1) the project boundary line for Falcon Lake; and

(2) the Rio Grande.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the area subject to this subchapter. The commission is composed of:

(1) four residents of Zapata County, with one resident

1 from each of the county commissioners precincts, appointed by that
2 precinct's commissioner; and

3 (2) a person, who shall serve as the commission's
4 presiding officer, appointed by the county judge of Zapata County.

5 (b) Except as provided by Subsection (c), the members of the
6 commission shall be appointed for two-year terms that expire
7 February 1 of each odd-numbered year.

8 (c) The terms of the initial members of the commission
9 expire on February 1 of the first February in an odd-numbered year
10 following their appointment.

11 (d) The Commissioners Court of Zapata County may employ
12 staff for the commission to use in performing the commission's
13 functions.

14 Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) At
15 the request of the Commissioners Court of Zapata County the
16 commission shall, or on the lake planning commission's own
17 initiative the commission may, conduct studies of the area subject
18 to this subchapter and prepare reports to advise the commissioners
19 court about matters affecting that area, including any need for
20 zoning regulations in that area.

21 (b) Before the commission may prepare a report, the
22 commission must hold a public hearing in which members of the public
23 may offer testimony regarding any subject to be included in the
24 commission's report. The commission shall provide notice of the
25 hearing as required by the commissioners court.

26 Sec. 231.255. ZONING REGULATIONS. After receiving a report
27 from the lake planning commission under Section 231.254, the

1 Commissioners Court of Zapata County may adopt zoning regulations
2 for the area subject to this subchapter and in accordance with the
3 report that regulate:

4 (1) the height, number of stories, and size of
5 buildings and other structures;

6 (2) the percentage of a lot that may be occupied;

7 (3) the size of yards, courts, and other open spaces;

8 (4) population density;

9 (5) the location and use of buildings, other
10 structures, and land for business, industrial, residential, or
11 other purposes; and

12 (6) the placement of water and sewage facilities,
13 parks, and other public requirements.

14 SECTION 4. Section 232.021, Local Government Code, is
15 amended by amending Subdivision (2) and adding Subdivisions (2-a),
16 (2-b), and (6-a) to read as follows:

17 (2) "Common promotional plan" means any plan or scheme
18 of operation undertaken by a single subdivider or developer or a
19 group of subdividers or developers acting in concert, either
20 personally or through an agent, to offer for sale or lease lots when
21 the land is:

22 (A) contiguous or part of the same area of land;

23 or

24 (B) known, designated, or advertised as a common
25 unit or by a common name.

26 (2-a) "Develop" means a structural improvement or
27 man-made change to a lot intended for residential use undertaken to

1 improve, enhance, or otherwise make suitable real property for
2 purposes of sale, resale, or lease.

3 (2-b) "Developer" means a person who owns any interest
4 in real property and directly or indirectly develops real property
5 in the ordinary course of business or as part of a common
6 promotional plan.

7 (6-a) "Lot of record" means:

8 (A) a lot, the boundaries of which were
9 established by a plat recorded in the office of the county clerk
10 before September 1, 1989, that has not been subdivided after
11 September 1, 1989; or

12 (B) a lot, the boundaries of which were
13 established by a metes and bounds description in a deed of
14 conveyance, a contract of sale, or other executory contract to
15 convey real property that has been legally executed and recorded in
16 the office of the county clerk before September 1, 1989, that has
17 not been subdivided after September 1, 1989.

18 SECTION 5. Section 232.024(b), Local Government Code, is
19 amended to read as follows:

20 (b) If any part of a plat applies to land intended for
21 residential housing and any part of that land lies in a floodplain,
22 the commissioners court shall not approve the plat unless:

23 (1) the subdivision is developed in compliance with
24 the minimum requirements of the National Flood Insurance Program
25 and local regulations or orders adopted under Section 16.315, Water
26 Code; and

27 (2) the plat evidences a restrictive covenant

1 prohibiting ~~[as required by this subsection. The restrictive~~
2 ~~covenant shall prohibit]~~ the construction of residential housing in
3 any area of the subdivision that is in a floodplain unless the
4 housing is developed in compliance with the minimum requirements of
5 ~~[qualifies for insurance under]~~ the National Flood Insurance
6 Program and local regulations or orders adopted under Section
7 16.315, Water Code ~~[Act of 1968 (42 U.S.C. Sections 4001 through~~
8 ~~4127)]~~.

9 SECTION 6. Section 232.028(b), Local Government Code, is
10 amended to read as follows:

11 (b) On the commissioners court's own motion or on the
12 written request of a subdivider, an owner or resident of a lot in a
13 subdivision, or an entity that provides a utility service, the
14 commissioners court shall make the following determinations
15 regarding the land in which the entity or commissioners court is
16 interested that is located within the jurisdiction of the county:

17 (1) whether a plat has been prepared and whether it has
18 been reviewed and approved by the commissioners court;

19 (2) whether water service facilities have been
20 constructed or installed to service the lot or subdivision under
21 Section 232.023 and are fully operable;

22 (3) whether sewer service facilities have been
23 constructed or installed to service the lot or subdivision under
24 Section 232.023 and are fully operable, or if septic systems are
25 used, whether the lot is served by a permitted on-site sewage
26 facility or lots in the subdivision can be adequately and legally
27 served by septic systems under Section 232.023; and

1 (4) whether electrical and gas facilities, if
2 available, have been constructed or installed to service the lot or
3 subdivision under Section 232.023.

4 SECTION 7. Section 232.029, Local Government Code, is
5 amended by amending Subsections (b), (c), (d), (e), and (i) and
6 adding Subsections (k) and (l) to read as follows:

7 (b) Except as provided by Subsection (c) or Section
8 232.037(c), a utility may not serve or connect any subdivided land
9 with electricity or gas unless the entity receives a determination
10 from the county commissioners court under Sections 232.028(b)(2)
11 and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer
12 services have been installed to service the lot or subdivision.

13 (c) An electric, gas, water, or sewer service utility may
14 serve or connect subdivided land with water, sewer, electricity,
15 gas, or other utility service regardless of whether the utility
16 receives a certificate issued by the commissioners court under
17 Section 232.028(a) or receives a determination from the
18 commissioners court under Section 232.028(b) if the utility is
19 provided with a certificate issued by the commissioners court that
20 states that:

21 (1) the subdivided land:

22 (A) was sold or conveyed by a subdivider or
23 developer [~~to the person requesting service~~] by any means of
24 conveyance, including a contract for deed or executory contract:

25 (i) before September 1, 1995; or

26 (ii) before September 1, 1999, if the
27 subdivided land on August 31, 1999, was located in the

extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A); ~~[is located in a subdivision in which the utility has previously provided service, and]~~

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun[+

~~[(i) on or before May 1, 1997, or~~

~~[(ii)]~~ on or before May 1, 2003; and

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling~~[, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42]; or~~

(3) ~~[(2)]~~ the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land

described by Subsection (c)(1), (2), or (3) only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the utility a certificate described by Subsection (c) ~~[(e)(1)]~~.

(e) A person requesting service may obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing ~~[either]~~:

(1) ~~[documentation containing:~~

~~[(A)]~~ a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);

(2) ~~[to the person requesting service:~~

~~[(i) before September 1, 1995, or~~

~~[(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42, and~~

~~[(B)]~~ a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun~~+~~

~~[(i) on or before May 1, 1997, or~~

~~[(ii)]~~ on or before May 1, 2003, and the

1 request for utility connection or service is to connect or serve a
2 residence described by Subsection (c)(1)(C);

3 (3) [~~if the subdivided land on August 31, 1999, was~~
4 ~~located in the extraterritorial jurisdiction of a municipality as~~
5 ~~determined by Chapter 42, or~~

6 [~~(2)~~] a notarized affidavit by the person requesting
7 service that states that the subdivided land has not been further
8 subdivided after [+]

9 [~~(A) the property was sold or conveyed to that~~
10 ~~person.~~

11 [~~(i) before~~] September 1, 1995, [~~+~~] or
12 [~~(ii) before~~] September 1, 1999, as
13 applicable under Subsection (c); and

14 (4) evidence that adequate sewer service or facilities
15 have been installed and are fully operable to service the lot or
16 dwelling from an entity described by Section 232.021(14) or the
17 authorized agent responsible for the licensing or permitting of
18 on-site sewage facilities under Chapter 366, Health and Safety Code
19 [~~if the subdivided land on August 31, 1999, was located in the~~
20 ~~extraterritorial jurisdiction of a municipality as determined by~~
21 ~~Chapter 42, and~~

22 [~~(B) construction of a residence on the land,~~
23 ~~evidenced by at least the existence of a completed foundation, was~~
24 ~~begun.~~

25 [~~(i) on or before May 1, 1997, or~~
26 [~~(ii) on or before May 1, 2003, if the~~
27 ~~subdivided land on August 31, 1999, was located in the~~

1 ~~extraterritorial jurisdiction of a municipality as determined by~~
2 ~~Chapter 42].~~

3 (i) The prohibition established by this section shall not
4 prohibit a water, sewer, [an] electric, or gas utility from
5 providing water, sewer, electric, or gas utility connection or
6 service to a lot [being] sold, conveyed, or purchased through a
7 contract for deed or executory contract or other device by a
8 subdivider or developer prior to July 1, 1995, or September 1, 1999,
9 if on August 31, 1999, the subdivided land was located in the
10 extraterritorial jurisdiction of a municipality that has adequate
11 sewer services installed that are fully operable to service the lot
12 [which is located within a subdivision where the utility has
13 previously established service] and was subdivided by a plat
14 approved prior to September 1, 1989.

15 (k) Except as provided by Subsection (l), this section does
16 not prohibit a water or sewer utility from providing water or sewer
17 utility connection or service to a residential dwelling that:

18 (1) is provided water or wastewater facilities under
19 or in conjunction with a federal or state funding program designed
20 to address inadequate water or wastewater facilities in colonias or
21 to residential lots located in a county described by Section
22 232.022(a)(1);

23 (2) is an existing dwelling identified as an eligible
24 recipient for funding by the funding agency providing adequate
25 water and wastewater facilities or improvements;

26 (3) when connected, will comply with the minimum state
27 standards for both water and sewer facilities and as prescribed by

1 the model subdivision rules adopted under Section 16.343, Water
2 Code; and

3 (4) is located in a project for which the political
4 subdivisions with jurisdiction over the project or the approval of
5 plats within the project area have approved the improvement project
6 by order, resolution, or interlocal agreement under Chapter 791,
7 Government Code, if applicable.

8 (1) A utility may not serve any subdivided land with water
9 utility connection or service under Subsection (k) unless the
10 entity receives a determination from the county commissioners court
11 under Section 232.028(b)(3) that adequate sewer services have been
12 installed to service the lot or dwelling.

13 SECTION 8. Sections 232.031(a) and (b), Local Government
14 Code, are amended to read as follows:

15 (a) Except as provided by Subsection (d), a subdivider or
16 developer may not sell or lease land in a subdivision first platted
17 or replatted after July 1, 1995, unless the subdivision plat is
18 approved by the commissioners court in accordance with Section
19 232.024.

20 (b) Not later than the 30th day after the date a lot is sold,
21 a subdivider or developer shall record with the county clerk all
22 sales contracts, including the attached disclosure statement
23 required by Section 232.033, leases, and any other documents that
24 convey an interest in the subdivided land.

25 SECTION 9. Sections 232.035(a) and (b), Local Government
26 Code, are amended to read as follows:

27 (a) A subdivider or developer or an agent of a subdivider or

1 developer may not cause, suffer, allow, or permit a lot to be sold
2 in a subdivision if the subdivision has not been platted as required
3 by this subchapter.

4 (b) Notwithstanding any other remedy at law or equity, a
5 subdivider or developer or an agent of a subdivider or developer may
6 not cause, suffer, allow, or permit any part of a subdivision over
7 which the subdivider or developer or an agent of the subdivider or
8 developer has control, or a right of ingress and egress, to become a
9 public health nuisance as defined by Section 341.011, Health and
10 Safety Code.

11 SECTION 10. Section 232.036(a), Local Government Code, is
12 amended to read as follows:

13 (a) A subdivider or developer commits an offense if the
14 subdivider or developer knowingly fails to file a plat or replat
15 required by this subchapter. An offense under this subsection is a
16 Class A misdemeanor.

17 SECTION 11. Section 232.038(a), Local Government Code, is
18 amended to read as follows:

19 (a) Except as provided by Subsection (b), a person who has
20 purchased or is purchasing a lot after July 1, 1995, in a
21 subdivision for residential purposes that does not have water and
22 sewer services as required by this subchapter and is located in an
23 economically distressed area, as defined by Section 17.921, Water
24 Code, from a subdivider or developer, may bring suit in the district
25 court in which the property is located or in a district court in
26 Travis County to:

27 (1) declare the sale of the property void and require

1 the subdivider or developer to return the purchase price of the
2 property; and

3 (2) recover from the subdivider or developer:

4 (A) the market value of any permanent
5 improvements the person placed on the property;

6 (B) actual expenses incurred as a direct result
7 of the failure to provide adequate water and sewer facilities;

8 (C) court costs; and

9 (D) reasonable attorney's fees.

10 SECTION 12. Sections 232.040(a), (b), and (c), Local
11 Government Code, are amended to read as follows:

12 (a) A subdivision plat must accurately reflect the
13 subdivision as it develops. If there is any change, either by the
14 intentional act of the subdivider or developer or by the forces of
15 nature, including changes in the size or dimension of lots or the
16 direction or condition of the roads, a plat must be revised in
17 accordance with Section 232.041.

18 (b) Except as provided by Subsection (c), a lot in a
19 subdivision may not be sold if the lot lacks water and sewer
20 services as required by this subchapter unless the lot is platted or
21 replatted as required by this subchapter. A subdivider or
22 developer or agent of a subdivider or developer may not transfer a
23 lot through an executory contract or other similar conveyance to
24 evade the requirements of this subchapter. The prohibition in this
25 subsection includes the sale of a lot:

26 (1) by a subdivider or developer who regains
27 possession of a lot previously exempt under Subsection (c) through

1 the exercise of a remedy described in Section 5.061, Property Code;
2 or

3 (2) for which it is shown at a proceeding brought in
4 the district court in which the property is located that the sale of
5 a lot otherwise exempt under Subsection (c) was made for the purpose
6 of evading the requirements of this subchapter.

7 (c) Subsection (b) does not apply to ~~if~~ a seller other
8 than a subdivider, developer, or agent of a subdivider or developer
9 ~~[resides on the lot]~~.

10 SECTION 13. Subchapter B, Chapter 412, Local Government
11 Code, is amended by adding Section 412.017 to read as follows:

12 Sec. 412.017. WATER SUPPLY AND SEWAGE SYSTEM FOR CERTAIN
13 BORDER COUNTIES. (a) This section applies only to a county:

14 (1) that is located adjacent to an international
15 border; and

16 (2) in which a military installation is located.

17 (b) The commissioners court of a county to which this
18 section applies may acquire, construct, or operate a water supply
19 system or sewage system to serve:

20 (1) unincorporated areas of the county; and

21 (2) areas initially included in a municipality on or
22 after September 1, 2007, in which the municipality does not provide
23 water or sewer services.

24 (c) The county may enter a management or lease agreement
25 with another public or private entity for the operation of a county
26 water or sewage system acquired or constructed under this section.

27 (d) The county may apply for and receive grants or other

1 assistance from a state or federal governmental entity to implement
2 this section.

3 (e) The county may own, operate, or maintain a water or
4 sewer utility in the same manner as a municipality under Chapter
5 402.

6 (f) A county may not construct, operate, or maintain a water
7 supply system or sewage system in an area previously served by the
8 county's water supply or sewage system after the area is annexed by
9 a municipality and the municipality begins providing to the area
10 water or sewer services previously provided by the county.

11 SECTION 14. Section 16.344, Water Code, is amended by
12 adding Subsections (d), (e), (f), (g), (h), and (i) to read as
13 follows:

14 (d) Notwithstanding Section 16.343(g) or Section 16.350(a),
15 a political subdivision may temporarily continue to receive funds
16 under Subchapter K, Chapter 17, if the political subdivision
17 submits a request for temporary continuation of funding and the
18 board determines that:

19 (1) the political subdivision's initial funding
20 application and any amendments for a designated area were reviewed
21 and approved by the board before January 1, 2007;

22 (2) withholding funds would result in an undue
23 hardship for occupants of the property to be served by unreasonably
24 delaying the provision of adequate water or wastewater services;

25 (3) withholding funds would result in inefficient use
26 of local, state, or federal funds under the program;

27 (4) the political subdivision has committed to take

1 the necessary and appropriate actions to correct any deficiencies
2 in adoption or enforcement of the model rules within the time
3 designated by the board, but not later than the 90th day after the
4 date the board makes the determinations under this subsection;

5 (5) the political subdivision has sufficient
6 safeguards in place to prevent the proliferation of colonias; and

7 (6) during the 30 days after the date the board
8 receives a request under this subsection, the board, after
9 consulting with the attorney general, secretary of state, and
10 commission, has not received an objection from any of those
11 entities to the request for temporary continuation of funding.

12 (e) In applying Subsection (d) to applications for
13 increased financial assistance, the board shall only consider areas
14 that were included in the initial application, except that the
15 board may reconsider the eligibility of areas that were the subject
16 of a facility plan in the initial application and that may be
17 determined to be eligible based on criteria in effect September 1,
18 2005.

19 (f) The political subdivision shall take necessary and
20 appropriate actions to correct any deficiencies in its adoption and
21 enforcement of the model rules within the time period required by
22 the board, not to exceed the 90-day period described by Subsection
23 (d)(4), and provide evidence of compliance to the board. The board
24 shall discontinue funding unless the board makes a determination
25 based on the evidence provided that the political subdivision has
26 demonstrated sufficient compliance to continue funding.

27 (g) Except as provided by Subsections (d)-(f), if the board

1 determines that a county or city that is required to adopt and
2 enforce the model rules is not enforcing the model rules, the board
3 shall discontinue funding for all projects within the county or
4 city that are funded under Subchapter K, Chapter 17.

5 (h) The board may not accept or grant applications for
6 temporary funding under Subsection (d) after June 1, 2009.

7 (i) Subsections (d), (e), (f), (g), and (h) and this
8 subsection expire September 1, 2009.

9 SECTION 15. Section 232.029(f), Local Government Code, is
10 repealed.

11 SECTION 16. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 17, 2007

TO: Honorable Tracy King, Chair, House Committee on Border & International Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3068** by Guillen (Relating to the authority of certain municipalities and counties to regulate subdivision near an international border.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Chapters 212 and 232 of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, CL, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 28, 2007

TO: Honorable Tracy King, Chair, House Committee on Border & International Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority of certain municipalities and counties to regulate subdivisions near an international border.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Chapters 212 and 232 of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, CL, DB

By: Guillen (Senate Sponsor - Zaffirini) H.B. No. 3068
(In the Senate - Received from the House May 4, 2007;
May 8, 2007, read first time and referred to Committee on
International Relations and Trade; May 15, 2007, reported
adversely, with favorable Committee Substitute by the following
vote: Yeas 4, Nays 0; May 15, 2007, sent to printer.)

COMMITTEE SUBSTITUTE FOR H.B. No. 3068 By: Lucio

A BILL TO BE ENTITLED
AN ACT

relating to the authority and responsibilities of certain political
subdivisions in relation to development.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 81.033(b), Local Government Code, is
amended to read as follows:

(b) If approved at an election held in the county for that
purpose, the commissioners court has, in addition to the powers
given to it under this code or other law, all the powers of the
governing body of a Type A general-law municipality, including the
powers contained in Subtitle A, Title 7, except that:

(1) the commissioners court may not regulate an
activity outside the county;

(2) the commissioners court may not regulate a tract
of land that is appraised as agricultural or open-space land by the
appraisal district;

(3) the commissioners court may not exercise the
powers of a municipality under Chapter 211 ~~[or 213]~~; and

(4) if this code or other law provides for a procedure
by which a county exercises a power, the commissioners court must
use that procedure.

SECTION 2. Section 212.012, Local Government Code, is
amended by amending Subsections (a), (c), (d), (e), (f), (h), and
(i) and adding Subsections (j) and (k) to read as follows:

(a) Except as provided by Subsection (c), (d), or (j)
~~[Subsection (e)]~~, an entity described by Subsection (b) may not
serve or connect any land with water, sewer, electricity, gas, or
other utility service unless the entity has been presented with or
otherwise holds a certificate applicable to the land issued under
Section 212.0115.

(c) An entity described by Subsection (b) may serve or
connect land with water, sewer, electricity, gas, or other utility
service regardless of whether the entity is presented with or
otherwise holds a certificate applicable to the land issued under
Section 212.0115 if:

(1) the land is covered by a development plat approved
under Subchapter B or under an ordinance or rule relating to the
development plat;

(2) the land was first served or connected with
service by an entity described by Subsection (b)(1), (b)(2), or
(b)(3) before September 1, 1987; or

(3) the land was first served or connected with
service by an entity described by Subsection (b)(4), (b)(5), or
(b)(6) before September 1, 1989~~[, or~~

~~[(4) the municipal authority responsible for
approving plats issues a certificate stating that:~~

~~[(A) the land:
[(i) was sold or conveyed to the person
requesting service by any means of conveyance, including a contract
for deed or executory contract, before:~~

~~[(a) September 1, 1995, in a county
defined under Section 232.022(a)(1), or~~

~~[(b) September 1, 2005, in a county
defined under Section 232.022(a)(2),~~

~~[(ii) is located in a subdivision in which~~

~~the entity has previously provided service,~~

~~[(iii) is located outside the limits of the municipality,~~

~~[(iv) is located in a county to which Subchapter B, Chapter 232, applies, and~~

~~[(v) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before.~~

~~[(a) May 1, 1997, in a county defined under Section 232.022(a)(1), or~~

~~[(b) September 1, 2005, in a county defined under Section 232.022(a)(2), or~~

~~[(B) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and.~~

~~[(i) water service is available within 750 feet of the subdivided land, or~~

~~[(ii) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider].~~

(d) In a county to which Subchapter B, Chapter 232, applies, an entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service that is located in the extraterritorial jurisdiction of a municipality regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115, if the municipal authority responsible for approving plats issues a certificate stating that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider or developer by any means of conveyance, including a contract for deed or executory contract, before:

(i) September 1, 1995, in a county defined under Section 232.022(a)(1);

(ii) September 1, 1999, in a county defined under Section 232.022(a)(1) if, on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or

(iii) September 1, 2005, in a county defined under Section 232.022(a)(2);

(B) has not been subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Paragraph (A);

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:

(i) May 1, 2003, in a county defined under Section 232.022(a)(1); or

(ii) September 1, 2005, in a county defined under Section 232.022(a)(2); and

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record as defined by Section 232.021(6-a) that is located in a county defined by Section 232.022(a)(1) and has adequate sewer services installed that are fully operable to service the lot or dwelling; or

(3) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(e) An entity described by Subsection (b) may provide utility service to land described by Subsection (d)(1), (2), or (3)

~~[Subsection (c)(4)(A)]~~ only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the entity a certificate described by Subsection (d) ~~[(c)(4)(A)]~~.

~~(f) [(c)]~~ A person requesting service may obtain a certificate under Subsection (d)(1), (2), or (3) ~~[Subsection (c)(4)(A)]~~ only if the person is the owner or purchaser of the subdivided land and provides to the municipal authority responsible for approving plats documentation containing ~~[either]~~:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer ~~[to the person requesting service]~~ before September 1, 1995, before September 1, 1999, or before September 1, 2005, as applicable under Subsection (d) ~~[, and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997, or on or before September 1, 2005, as applicable]; [or]~~

(2) for a certificate issued under Subsection (d)(1), a notarized affidavit by the person requesting service that states that ~~[the property was sold or conveyed to that person before September 1, 1995, or before September 1, 2005, as applicable, and that]~~ construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 2003, in a county defined by Section 232.022(a)(1) or September 1, 2005, in a county defined by Section 232.022(a)(2), and the request for utility connection or service is to connect or serve a residence described by Subsection (d)(1)(C);

(3) a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Subsection (d); and

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Subsection (b) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code. ~~[May 1, 1997, or on or before September 1, 2005, as applicable.]~~

~~[(f)]~~ A person requesting service may obtain a certificate under Subsection (c)(4)(B) only if the person provides to the municipal authority responsible for approving plats an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 1995, or after September 1, 2005, as applicable.]

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider or developer for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) In this section:

(1) "Developer" has the meaning assigned by Section 232.021.

(2) "Foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(3) ~~[(2)]~~ "Subdivider" has the meaning assigned by Section 232.021.

(j) Except as provided by Subsection (k), this section does not prohibit a water or sewer utility from providing in a county defined by Section 232.022(a)(1) water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible

recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the political subdivisions with jurisdiction over the project or the approval of plats within the project area have approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code.

(k) A utility may not serve any subdivided land with water utility connection or service under Subsection (j) unless the entity receives a determination that adequate sewer services have been installed to service the lot or dwelling from the municipal authority responsible for approving plats, an entity described by Subsection (b), or the authorized agent responsible for the licensing or permitting of on-site sewage facilities pursuant to Chapter 366, Health and Safety Code.

SECTION 3. Chapter 231, Local Government Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. ZONING AROUND FALCON LAKE

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated area of Zapata County located within 25,000 feet of:

(1) the project boundary line for Falcon Lake; and

(2) the Rio Grande.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the area subject to this subchapter. The commission is composed of:

(1) four residents of Zapata County, with one resident from each of the county commissioners precincts, appointed by that precinct's commissioner; and

(2) a person, who shall serve as the commission's presiding officer, appointed by the county judge of Zapata County.

(b) Except as provided by Subsection (c), the members of the commission shall be appointed for two-year terms that expire February 1 of each odd-numbered year.

(c) The terms of the initial members of the commission expire on February 1 of the first February in an odd-numbered year following their appointment.

(d) The Commissioners Court of Zapata County may employ staff for the commission to use in performing the commission's functions.

Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) At the request of the Commissioners Court of Zapata County the commission shall, or on the lake planning commission's own initiative the commission may, conduct studies of the area subject to this subchapter and prepare reports to advise the commissioners court about matters affecting that area, including any need for zoning regulations in that area.

(b) Before the commission may prepare a report, the commission must hold a public hearing in which members of the public

may offer testimony regarding any subject to be included in the commission's report. The commission shall provide notice of the hearing as required by the commissioners court.

Sec. 231.255. ZONING REGULATIONS. After receiving a report from the lake planning commission under Section 231.254, the Commissioners Court of Zapata County may adopt zoning regulations for the area subject to this subchapter and in accordance with the report that regulate:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

SECTION 4. Section 232.021, Local Government Code, is amended by amending Subdivision (2) and adding Subdivisions (2-a), (2-b), and (6-a) to read as follows:

(2) "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or developer or a group of subdividers or developers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:

(A) contiguous or part of the same area of land; or

(B) known, designated, or advertised as a common unit or by a common name.

(2-a) "Develop" means a structural improvement or man-made change to a lot intended for residential use undertaken to improve, enhance, or otherwise make suitable real property for purposes of sale, resale, or lease.

(2-b) "Developer" means a person who owns any interest in real property and directly or indirectly develops real property in the ordinary course of business or as part of a common promotional plan.

(6-a) "Lot of record" means:

(A) a lot, the boundaries of which were established by a plat recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989; or

(B) a lot, the boundaries of which were established by a metes and bounds description in a deed of conveyance, a contract of sale, or other executory contract to convey real property that has been legally executed and recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989.

SECTION 5. Section 232.024(b), Local Government Code, is amended to read as follows:

(b) If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the commissioners court shall not approve the plat unless:

(1) the subdivision is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code; and

(2) the plat evidences a restrictive covenant prohibiting [as required by this subsection. The restrictive covenant shall prohibit] the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing is developed in compliance with the minimum requirements of [qualifies for insurance under] the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code [Act of 1968 (42 U.S.C. Sections 4001 through 4127)].

SECTION 6. Section 232.028(b), Local Government Code, is amended to read as follows:

(b) On the commissioners court's own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county:

(1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;

(2) whether water service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable, or if septic systems are used, whether the lot is served by a permitted on-site sewage facility or lots in the subdivision can be adequately and legally served by septic systems under Section 232.023; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the lot or subdivision under Section 232.023.

SECTION 7. Section 232.029, Local Government Code, is amended by amending Subsections (b), (c), (d), (e), and (i) and adding Subsections (k) and (l) to read as follows:

(b) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Sections 232.028(b)(2) and (3) [Section 232.028(b)(2)] that adequate water and sewer services have been installed to service the lot or subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider or developer [to the person requesting service] by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A); [is located in a subdivision in which the utility has previously provided service, and]

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun[+]

~~[(i) on or before May 1, 1997, or~~

~~[(ii)] on or before May 1, 2003; and~~

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling[, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42]; or

(3) ~~[(2)]~~ the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water

7-1 service provider.

7-2 (d) A utility may provide utility service to subdivided land
7-3 described by Subsection (c)(1), (2), or (3) only if the person
7-4 requesting service:

7-5 (1) is not the land's subdivider or developer or the
7-6 subdivider's or developer's agent; and

7-7 (2) provides to the utility a certificate described by
7-8 Subsection (c) ~~[(c)(1)]~~.

7-9 (e) A person requesting service may obtain a certificate
7-10 under Subsection (c)(1), (2), or (3) only if the person is the owner
7-11 or purchaser of the subdivided land and provides to the
7-12 commissioners court documentation containing [either]:

7-13 (1) ~~[documentation containing+]~~
7-14 ~~[(A)]~~ a copy of the means of conveyance or other
7-15 documents that show that the land was sold or conveyed by a
7-16 subdivider or developer before September 1, 1995, or before
7-17 September 1, 1999, as applicable under Subsection (c);

7-18 (2) ~~[to the person requesting service+]~~
7-19 ~~[(i) before September 1, 1995, or~~
7-20 ~~[(ii) before September 1, 1999, if the~~
7-21 ~~subdivided land on August 31, 1999, was located in the~~
7-22 ~~extraterritorial jurisdiction of a municipality as determined by~~
7-23 ~~Chapter 42, and~~

7-24 ~~[(B)]~~ a notarized affidavit by that person
7-25 requesting service under Subsection (c)(1) that states that
7-26 construction of a residence on the land, evidenced by at least the
7-27 existence of a completed foundation, was begun[+]

7-28 ~~[(i) on or before May 1, 1997, or~~
7-29 ~~[(ii)] on or before May 1, 2003, and the~~
7-30 request for utility connection or service is to connect or serve a
7-31 residence described by Subsection (c)(1)(C);

7-32 (3) ~~[, if the subdivided land on August 31, 1999, was~~
7-33 ~~located in the extraterritorial jurisdiction of a municipality as~~
7-34 ~~determined by Chapter 42, or~~

7-35 ~~[(2)]~~ a notarized affidavit by the person requesting
7-36 service that states that the subdivided land has not been further
7-37 subdivided after[+]

7-38 ~~[(A) the property was sold or conveyed to that~~
7-39 ~~person+]~~

7-40 ~~[(i) before] September 1, 1995, [+]~~ or
7-41 ~~[(ii) before] September 1, 1999, as~~
7-42 applicable under Subsection (c); and

7-43 (4) evidence that adequate sewer service or facilities
7-44 have been installed and are fully operable to service the lot or
7-45 dwelling from an entity described by Section 232.021(14) or the
7-46 authorized agent responsible for the licensing or permitting of
7-47 on-site sewage facilities under Chapter 366, Health and Safety Code
7-48 [if the subdivided land on August 31, 1999, was located in the
7-49 extraterritorial jurisdiction of a municipality as determined by
7-50 Chapter 42, and

7-51 ~~[(B) construction of a residence on the land,~~
7-52 ~~evidenced by at least the existence of a completed foundation, was~~
7-53 ~~begun+]~~

7-54 ~~[(i) on or before May 1, 1997, or~~
7-55 ~~[(ii) on or before May 1, 2003, if the~~
7-56 ~~subdivided land on August 31, 1999, was located in the~~
7-57 ~~extraterritorial jurisdiction of a municipality as determined by~~
7-58 ~~Chapter 42].~~

7-59 (i) The prohibition established by this section shall not
7-60 prohibit a water, sewer, [an] electric, or gas utility from
7-61 providing water, sewer, electric, or gas utility connection or
7-62 service to a lot [being] sold, conveyed, or purchased through a
7-63 contract for deed or executory contract or other device by a
7-64 subdivider or developer prior to July 1, 1995, or September 1, 1999,
7-65 if on August 31, 1999, the subdivided land was located in the
7-66 extraterritorial jurisdiction of a municipality that has adequate
7-67 sewer services installed that are fully operable to service the lot
7-68 [which is located within a subdivision where the utility has
7-69 previously established service] and was subdivided by a plat

approved prior to September 1, 1989.

(k) Except as provided by Subsection (l), this section does not prohibit a water or sewer utility from providing water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the political subdivisions with jurisdiction over the project or the approval of plats within the project area have approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code, if applicable.

(l) A utility may not serve any subdivided land with water utility connection or service under Subsection (k) unless the entity receives a determination from the county commissioners court under Section 232.028(b)(3) that adequate sewer services have been installed to service the lot or dwelling.

SECTION 8. Sections 232.031(a) and (b), Local Government Code, are amended to read as follows:

(a) Except as provided by Subsection (d), a subdivider or developer may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(b) Not later than the 30th day after the date a lot is sold, a subdivider or developer shall record with the county clerk all sales contracts, including the attached disclosure statement required by Section 232.033, leases, and any other documents that convey an interest in the subdivided land.

SECTION 9. Sections 232.035(a) and (b), Local Government Code, are amended to read as follows:

(a) A subdivider or developer or an agent of a subdivider or developer may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) Notwithstanding any other remedy at law or equity, a subdivider or developer or an agent of a subdivider or developer may not cause, suffer, allow, or permit any part of a subdivision over which the subdivider or developer or an agent of the subdivider or developer has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Health and Safety Code.

SECTION 10. Section 232.036(a), Local Government Code, is amended to read as follows:

(a) A subdivider or developer commits an offense if the subdivider or developer knowingly fails to file a plat or replat required by this subchapter. An offense under this subsection is a Class A misdemeanor.

SECTION 11. Section 232.038(a), Local Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider or developer, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void and require the subdivider or developer to return the purchase price of the

property; and

- (2) recover from the subdivider or developer:
 - (A) the market value of any permanent improvements the person placed on the property;
 - (B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;
 - (C) court costs; and
 - (D) reasonable attorney's fees.

SECTION 12. Sections 232.040(a), (b), and (c), Local Government Code, are amended to read as follows:

(a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or developer or by the forces of nature, including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.041.

(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is platted or replatted as required by this subchapter. A subdivider or developer or agent of a subdivider or developer may not transfer a lot through an executory contract or other similar conveyance to evade the requirements of this subchapter. The prohibition in this subsection includes the sale of a lot:

(1) by a subdivider or developer who regains possession of a lot previously exempt under Subsection (c) through the exercise of a remedy described in Section 5.061, Property Code; or

(2) for which it is shown at a proceeding brought in the district court in which the property is located that the sale of a lot otherwise exempt under Subsection (c) was made for the purpose of evading the requirements of this subchapter.

(c) Subsection (b) does not apply to [if] a seller other than a subdivider, developer, or agent of a subdivider or developer [resides on the lot].

SECTION 13. Chapter 242, Local Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 242.051. APPLICABILITY. This subchapter applies only to:

(1) a county that includes territory located within 50 miles of an international border; or

(2) a municipality located in that county if:
(A) the county does not exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter; and

(B) the county by resolution authorizes the municipality to exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter.

Sec. 242.052. REGULATORY AUTHORITY. (a) The commissioners court of a county to which this subchapter applies may, by order, regulate residential land development in the unincorporated area of the county. The governing body of a municipality to which this subchapter applies may, by ordinance, regulate residential land development in the municipality's extraterritorial jurisdiction. By this authority, the commissioners court or governing body may prevent the proliferation of colonias by:

(1) adopting regulations relating to:
(A) maximum densities, including the size of lots;

(B) the height, number of stories, size, or number of buildings or other structures that may be located on a lot or tract;

(C) the location of buildings and other structures on a lot or tract;

(D) the preparation of a plan for:
(i) utility development;

10-1 (ii) environmental effect and adaptation;
 10-2 (iii) utility extension; and
 10-3 (iv) capacity planning; and
 10-4 (E) financial analysis provided for a plan
 10-5 prepared under Paragraph (D); and

10-6 (2) adopting building codes to promote safe and
 10-7 uniform building, plumbing, and electrical standards.

10-8 (b) If a tract of land is appraised as agricultural or
 10-9 open-space land by the appraisal district, the commissioners court
 10-10 or governing body may not regulate land development on that tract
 10-11 under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or
 10-12 (a)(2).

10-13 (c) The authority granted under this section does not
 10-14 authorize the commissioners court or governing body to adopt an
 10-15 order regulating commercial property that is uninhabitable.

10-16 (d) The authority granted under this section does not
 10-17 authorize the commissioners court or governing body to adopt an
 10-18 order that limits or otherwise impairs the rights of individuals or
 10-19 entities in the exploration, development, or production of oil,
 10-20 gas, or other minerals.

10-21 Sec. 242.053. BUILDING PERMITS. (a) The county or
 10-22 municipality, as appropriate, shall issue a building permit if the
 10-23 person submitting the application for the permit:

10-24 (1) files information relating to the location of the
 10-25 residence;

10-26 (2) files the building plans for the residence; and
 10-27 (3) complies with the applicable regulations relating
 10-28 to the issuance of the permit.

10-29 (b) The county or municipality may charge a reasonable
 10-30 building permit fee.

10-31 (c) The county or municipality shall deposit fees collected
 10-32 under this section in an account in its general fund and dedicate
 10-33 the fees to the building permit program. The funds in the account
 10-34 may be used only for the purpose of administering the building
 10-35 permit program.

10-36 Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
 10-37 ORDER. If an order adopted by the county under this subchapter
 10-38 conflicts with an ordinance of a municipality, the municipal
 10-39 ordinance prevails within the municipality's jurisdiction to the
 10-40 extent of the conflict.

10-41 Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority
 10-42 granted by this subchapter does not affect the authority of the
 10-43 commissioners court or governing body to adopt an order or
 10-44 ordinance under other law.

10-45 Sec. 242.056. INJUNCTION. The county or municipality, in a
 10-46 suit brought by the appropriate attorney representing the county or
 10-47 municipality in the district court, is entitled to appropriate
 10-48 injunctive relief to prevent the violation or threatened violation
 10-49 of the entity's order or ordinance adopted under this subchapter
 10-50 from continuing or occurring.

10-51 Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an
 10-52 offense if the person violates a restriction or prohibition imposed
 10-53 by an order or ordinance adopted under this subchapter. An offense
 10-54 under this section is a Class C misdemeanor.

10-55 (b) It is an exception to the application of this section
 10-56 that:

10-57 (1) the person is an owner-occupant of a residential
 10-58 dwelling that is classified by the Texas Department of Housing and
 10-59 Community Affairs as a low-income household;

10-60 (2) the dwelling was constructed before the effective
 10-61 date of this subchapter;

10-62 (3) the violation related to a building standard or
 10-63 building code for that dwelling; and

10-64 (4) the county or municipality, as appropriate:
 10-65 (A) did not make available to the person a grant
 10-66 or loan in an amount sufficient to cure the violation; or

10-67 (B) made available to the person a loan that was
 10-68 sufficient to cure the violation but that caused the housing
 10-69 expenses of the person to exceed 30 percent of the person's net

income.

SECTION 14. The heading to Chapter 242, Local Government Code, is amended to read as follows:

CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE
SUBDIVISIONS AND PROPERTY DEVELOPMENT ~~[IN AND OUTSIDE
MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION]~~

SECTION 15. Chapter 242, Local Government Code, is amended by designating Sections 242.001, 242.0015, and 242.002 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE
MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

SECTION 16. Subchapter B, Chapter 412, Local Government Code, is amended by adding Section 412.017 to read as follows:

Sec. 412.017. WATER SUPPLY AND SEWAGE SYSTEM FOR CERTAIN
BORDER COUNTIES. (a) This section applies only to a county:

(1) that is located adjacent to an international
border; and

(2) in which a military installation is located.

(b) The commissioners court of a county to which this
section applies may acquire, construct, or operate a water supply
system or sewage system to serve:

(1) unincorporated areas of the county; and

(2) areas initially included in a municipality on or
after September 1, 2007, in which the municipality does not provide
water or sewer services.

(c) The county may enter a management or lease agreement
with another public or private entity for the operation of a county
water or sewage system acquired or constructed under this section.

(d) The county may apply for and receive grants or other
assistance from a state or federal governmental entity to implement
this section.

(e) The county may own, operate, or maintain a water or
sewer utility in the same manner as a municipality under Chapter
402.

(f) A county may not construct, operate, or maintain a water
supply system or sewage system in an area previously served by the
county's water supply or sewage system after the area is annexed by
a municipality and the municipality begins providing to the area
water or sewer services previously provided by the county.

SECTION 17. Section 16.344, Water Code, is amended by
adding Subsections (d), (e), (f), (g), (h), and (i) to read as
follows:

(d) Notwithstanding Section 16.343(g) or Section 16.350(a),
a political subdivision may temporarily continue to receive funds
under Subchapter K, Chapter 17, if the political subdivision
submits a request for temporary continuation of funding and the
board determines that:

(1) the political subdivision's initial funding
application and any amendments for a designated area were reviewed
and approved by the board before January 1, 2007;

(2) withholding funds would result in an undue
hardship for occupants of the property to be served by unreasonably
delaying the provision of adequate water or wastewater services;

(3) withholding funds would result in inefficient use
of local, state, or federal funds under the program;

(4) the political subdivision has committed to take
the necessary and appropriate actions to correct any deficiencies
in adoption or enforcement of the model rules within the time
designated by the board, but not later than the 90th day after the
date the board makes the determinations under this subsection;

(5) the political subdivision has sufficient
safeguards in place to prevent the proliferation of colonias; and

(6) during the 30 days after the date the board
receives a request under this subsection, the board, after
consulting with the attorney general, secretary of state, and
commission, has not received an objection from any of those
entities to the request for temporary continuation of funding.

(e) In applying Subsection (d) to applications for

12-1 increased financial assistance, the board shall only consider areas
12-2 that were included in the initial application, except that the
12-3 board may reconsider the eligibility of areas that were the subject
12-4 of a facility plan in the initial application and that may be
12-5 determined to be eligible based on criteria in effect September 1,
12-6 2005.

12-7 (f) The political subdivision shall take necessary and
12-8 appropriate actions to correct any deficiencies in its adoption and
12-9 enforcement of the model rules within the time period required by
12-10 the board, not to exceed the 90-day period described by Subsection
12-11 (d)(4), and provide evidence of compliance to the board. The board
12-12 shall discontinue funding unless the board makes a determination
12-13 based on the evidence provided that the political subdivision has
12-14 demonstrated sufficient compliance to continue funding.

12-15 (g) Except as provided by Subsections (d)-(f), if the board
12-16 determines that a county or city that is required to adopt and
12-17 enforce the model rules is not enforcing the model rules, the board
12-18 shall discontinue funding for all projects within the county or
12-19 city that are funded under Subchapter K, Chapter 17.

12-20 (h) The board may not accept or grant applications for
12-21 temporary funding under Subsection (d) after June 1, 2009.

12-22 (i) Subsections (d), (e), (f), (g), and (h) and this
12-23 subsection expire September 1, 2009.

12-24 SECTION 18. Section 232.029(f), Local Government Code, is
12-25 repealed.

12-26 SECTION 19. This Act takes effect immediately if it
12-27 receives a vote of two-thirds of all the members elected to each
12-28 house, as provided by Section 39, Article III, Texas Constitution.
12-29 If this Act does not receive the vote necessary for immediate
12-30 effect, this Act takes effect September 1, 2007.

12-31 * * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

SB SCR SJR SR (HB) HCR HJR 3068
By Guillen ZAFFIRINI
(Author/Senate Sponsor)
May 15, 2007
(date)

We, your Committee on INTERNATIONAL RELATIONS AND TRADE, to which was referred the attached measure,
have on 5/14/07, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☐ the caption remained the same as original measure
☐ the caption changed with adoption of the substitute

☐ do pass as substituted, and be ordered not printed

☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Eddie Lucio, Jr., Chair	<input checked="" type="checkbox"/>			
Senator Dan Patrick, Vice-Chair			<input checked="" type="checkbox"/>	
Senator Craig Estes	<input checked="" type="checkbox"/>			
Senator Troy Fraser			<input checked="" type="checkbox"/>	
Senator Mario Gallegos			<input checked="" type="checkbox"/>	
Senator Kel Seliger	<input checked="" type="checkbox"/>			
Senator Carlos Uresti	<input checked="" type="checkbox"/>			
TOTAL VOTES	4	0	3	0

COMMITTEE ACTION

☒ S260 Considered in public hearing

☒ S270 Testimony taken

COMMITTEE CLERK

CHAIR

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

HB 3068

Senate Committee Report

International Relations & Trade

May 14, 2007 - 10:00 AM

Registering, but not testifying:

For:

Garza, Jerry County Commissioner Pct. 3 (County of Webb), Laredo, TX

Selman, Keith Director of Planning (City of Laredo, Texas), Laredo, TX

Tiffin, Rhonda Planning Director (Webb County), Laredo, TX

Valdez, Danny County Judge (County of Webb), Laredo, TX

Vidaurre, Rafael Planner/Compliance Analyst (County of Webb), Laredo, TX

On:

Morales, Erich Assistant County Attorney-El Paso County (El Paso County), El Paso, TX

Ward, J. Kevin Executive Administrator (Texas Water Development Board), Austin, TX

Against Committee Substitute :

Munoz, Ned Director of Regulatory Affairs (Texas Association of Builders), Austin, TX

Rice, Chuck (Texas Land Development Association), Austin, TX

BILL ANALYSIS

Senate Research Center
80R19782 MSE-F

C.S.H.B. 3068
By: Guillen (Zaffirini)
International Relations & Trade
5/14/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires an owner who purchased a grandfathered colonia home to make improvements associated with the platting requirements in order to receive utility service. The law also prohibits utilities from being provided to colonia lots that were platted before 1989. These laws have created financial hardship among many owners of such homes.

C.S.H.B. 3068 revises and clarifies the grandfathering provisions regarding the sale of colonia property to authorize utility connections to be made without a re-platting of colonia land. The bill authorizes certain counties and municipalities to regulate residential land development in the unincorporated areas of the county or areas of extraterritorial jurisdiction of the municipality. This bill also provides a penalty for a violation of county or municipal land development restrictions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 81.033(b), Local Government Code, to delete existing text prohibiting the commissioners court from exercising the powers of a municipality under Chapter 213 (Municipal Comprehensive Plans).

SECTION 2. Amends Section 212.012, Local Government Code, by amending Subsections (a), (c), (d), (e), (f), (h), and (i) and adding Subsections (j) and (k), as follows:

(a) Makes a conforming change.

(c) Deletes existing text relating to a certain certificate issued by a municipal authority responsible for approving plats stating whether land was subdivided before or after certain dates that authorize an entity described by Subsection (b) to serve or connect the land with water, sewer, electricity, gas, or other utility services (utilities) regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 (Certification Regarding Compliance with Plat Requirements).

(d) Authorizes an entity described by Subsection (b), in a county to which Subchapter B (Subdivision Platting Requirements in County Near International Border), Chapter 232, applies, to serve or connect land that is located in the extraterritorial jurisdiction of a municipality with utilities regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115, if the municipal authority responsible for approving plats issues a certificate stating that the land meets certain conditions regarding whether the land was subdivided before or after certain dates.

(e) Redesignated from existing Subsection (d). Authorizes an entity described by Subsection (b) to provide utility service to certain lands only if the person requesting service is not the land's subdivider or developer or the subdivider's or developer's agent and provides to the entity a certificate described by Subsection (d), rather than (c)(4)(A).

(f) Redesignated from existing Subsection (e). Authorizes a person requesting service to obtain a certificate under Subsection (d)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the municipal authority responsible for approving plats certain documentation set forth in this subsection. Deletes existing Subsection (f), authorizing a person requesting service to obtain a certificate under Subsection (c)(4)(B) only if the person provides to the municipal authority responsible for approving plats a certain affidavit stating regarding the sale or conveyance of the property. Makes conforming changes.

(h) Makes a conforming change.

(i) Defines "developer." Makes conforming changes.

(j) Provides that this section does not prohibit a water or sewer utility from providing in a county defined by Section 232.022(a)(1) water or sewer utility connection or service to certain residential dwellings, except as provided by Subsection (k).

(k) Prohibits a utility from serving any subdivided land with water utility connection or service under Subsection (j) unless the entity receives a determination that adequate sewer services have been installed to service the lot or dwelling from the municipal authority responsible for approving plats, an entity described by Subsection (b), or the authorized agent responsible for the licensing or permitting of on-site sewage facilities pursuant to Chapter 366 (On-site Sewage Disposal Systems), Health and Safety Code.

SECTION 3. Amends Chapter 231, Local Government Code, by adding Subchapter L, as follows:

SUBCHAPTER L. ZONING AROUND FALCON LAKE

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) Provides that the legislature finds that the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state, orderly development and use of the area is of concern to the entire state, and buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) Provides that the powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Sec. 231.252. AREAS SUBJECT TO REGULATION. Provides that this subchapter applies only to the unincorporated area of Zapata County located within 25,000 feet of the project boundary line for Falcon Lake and the Rio Grande.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) Establishes a lake planning commission (commission) for the area subject to this subchapter, and sets forth the composition of the commission.

(b) Requires commission members to be appointed for two-year terms that expire February 1 of each odd-numbered year, except as provided by Subsection (c).

(c) Provides that the terms of the initial members of the commission expire on February 1 of the first February in an odd-numbered year following their appointment.

(d) Authorizes the Commissioners Court of Zapata County to employ staff for the commission to use in performing its functions.

Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) Requires the commission at the request of the Zapata County commissioners court, or authorizes the commission on its own initiative, to conduct studies of the area subject to this subchapter and prepare reports to advise the commissioners court about matters affecting that area, including any need for zoning regulations in that area.

(b) Requires the commission, before the commission may prepare a report, to hold a public hearing in which members of the public may offer testimony regarding any subject to be included in the commission's report. Requires the commission to provide notice of the hearing as required by the Zapata County commissioners court.

Sec. 231.255. ZONING REGULATIONS. Authorizes the Zapata County commissioners court to adopt zoning regulations for the area subject to this subchapter and in accordance with the report that regulate certain factors set forth in this subsection after having received the report from the commission under Section 231.254.

SECTION 4. Amends Section 232.021, Local Government Code, by amending Subdivision (2) and adding Subdivisions (2-a), (2-b), and (6-a), to redefine "common promotional plan" to make conforming changes, and to define "develop," "developer," and "lot of record."

SECTION 5. Amends Section 232.024(b), Local Government Code, to prohibit a commissioners court, if any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, from approving the plat unless the subdivision or plat meets certain conditions set forth in this subsection. Makes conforming changes.

SECTION 6. Amends Section 232.028(b), Local Government Code, to require a commissioners court, on its own motion, to make certain determinations set forth in this subsection. Makes conforming changes.

SECTION 7. Amends Section 232.029, Local Government Code, by amending Subsections (b), (c), (d), (e), and (i) and adding Subsections (k) and (l), as follows:

(b) Prohibits a utility from serving or connecting any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Sections 232.028(b)(2) and (3) that adequate water and sewer services have been installed to service the lot or subdivision.

(c) Authorizes a utility to serve or connect subdivided land with utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court containing certain statements set forth in this subsection.

(d) Authorizes a utility to provide utility service to subdivided land described by Subsection (c)(1), (2), or (3) only if the person requesting service meets certain conditions set forth in this subsection.

(e) Authorizes a person requesting service to obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing certain information set forth in this subsection.

(i) Prohibits the prohibition established by this section (Connection of Utilities in Counties within 50 Miles of International Border) from prohibiting a utility from providing utility connection or service to a lot sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider or developer prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality that has adequate sewer services installed that are fully operable to service the lot and was subdivided by a plat approved prior to September 1, 1989. Deletes existing text relating to the prohibition

against a utility providing a utility connection or service to a lot which is located within a subdivision where the utility has previously established service.

(k) Provides that this section does not prohibit a water or sewer utility from providing water or sewer utility connection or service to certain residential dwellings, except as provided by Subsection (l).

(l) Prohibits a utility from serving any subdivided land with water utility connection or service under Subsection (k) unless the entity receives a determination from the county commissioners court under Section 232.028(b)(3) that adequate sewer services have been installed to service the lot or dwelling.

SECTION 8. Amends Sections 232.031(a) and (b), Local Government Code, to make conforming changes.

SECTION 9. Amends Sections 232.035(a) and (b), Local Government Code, to make conforming changes.

SECTION 10. Amends Section 232.036(a), Local Government Code, to make conforming changes.

SECTION 11. Amends Section 232.038(a), Local Government Code, to make conforming changes.

SECTION 12. Amends Sections 232.040(a), (b), and (c), Local Government Code, as follows:

(a) and (b) Makes conforming changes.

(c) Provides that Subsection (b) does not apply to a seller other than a subdivider, developer, or agent of a subdivider or developer. Deletes existing text providing that Subsection (b) does not apply to such entities if they reside on the lot.

SECTION 13. Amends Chapter 242, Local Government Code, by adding Subchapter B, as follows:

SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 242.051. **APPLICABILITY.** Provides that this subchapter applies only to certain counties and municipalities.

Sec. 242.052. **REGULATORY AUTHORITY.** (a) Authorizes the commissioners court of a county (court) to which this subchapter applies to regulate, by order, residential land development in the unincorporated area of the county. Authorizes the governing body of a municipality (body) to which this subchapter applies to regulate, by ordinance, residential land development in the municipality's extraterritorial jurisdiction. Authorizes the court or body, by this authority, to prevent the proliferation of colonias by adopting certain regulations and building codes.

(b) Prohibits the court or body from regulating land development on a tract of land under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2), if that tract is appraised as agricultural or open-space land by the appraisal district.

(c) Provides that the authority granted under this section does not authorize the court or body to adopt an order regulating commercial property that is uninhabitable.

(d) Provides that the authority granted under this section does not authorize the court or body to adopt an order that limits or otherwise impairs the rights of individuals or entities in the exploration, development, or production of oil, gas, or other minerals.

Sec. 242.053. BUILDING PERMITS. Requires the county or municipality to issue a building permit to persons who meet certain criteria in submitting an application for a building permit. Authorizes the county or municipality to charge a reasonable building permit fee. Requires that the fees be deposited in the county's or municipality's general fund and dedicated to the building permit program. Authorizes the funds to be used only for the purpose of administering the building permit program.

Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER. Provides that a municipal ordinance prevails within the municipality's jurisdiction to the extent of a conflict that occurs with an order adopted by the county under this subchapter.

Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. Provides that the authority granted by this subchapter does not affect the authority of the court or body to adopt an order or ordinance under other law.

Sec. 242.056. INJUNCTION. Entitles the county or municipality to appropriate injunctive relief, in a suit brought by the appropriate attorney representing the county or municipality in the district court, to prevent the violation or threatened violation of the entity's order or ordinance adopted under this subchapter from continuing or occurring.

Sec. 242.057. PENALTY; EXCEPTION. Provides that a person commits a Class C misdemeanor offense if the person violates a restriction or prohibition imposed by an order or ordinance adopted under this subchapter. Sets forth exceptions to the application of this section.

SECTION 14. Amends the heading to Chapter 242, Local Government Code, to read as follows:

**CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE
SUBDIVISIONS AND PROPERTY DEVELOPMENT**

SECTION 15. Amends Chapter 242, Local Government Code, by designating Sections 242.001, 242.0015, and 242.002 as Subchapter A, and adding a heading for Subchapter A, to read as follows:

**SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE
MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION**

SECTION 16. Amends Subchapter B, Chapter 412, Local Government Code, by adding Section 412.017, as follows:

Sec. 412.017. WATER SUPPLY AND SEWAGE SYSTEM FOR CERTAIN BORDER COUNTIES. (a) Provides that this section applies only to a county that is located adjacent to an international border and in which a military installation is located.

(b) Authorizes the commissioners court of a county to which this section applies to acquire, construct, or operate a water supply system or sewage system to serve unincorporated areas of the county and areas initially included in a municipality on or after September 1, 2007, in which the municipality does not provide water or sewer services.

(c) Authorizes the county to enter a management or lease agreement with another public or private entity for the operation of a county water or sewage system acquired or constructed under this section.

(d) Authorizes the county to apply for and receive grants or other assistance from a state or federal governmental entity to implement this section.

(e) Authorizes the county to own, operate, or maintain a water or sewer utility in the same manner as a municipality under Chapter 402 (Municipal Utilities).

(f) Prohibits a county from constructing, operating, or maintaining a water supply system or sewage system in an area previously served by the county's water supply or sewage system after the area is annexed by a municipality and the municipality begins providing to the area water or sewer services previously provided by the county.

SECTION 17. Amends Section 16.344, Water Code, by adding Subsections (d), (e), (f), (g), (h), and (i), as follows:

(d) Authorizes a political subdivision to continue temporarily to receive funds under Subchapter K (Assistance to Economically Distressed Areas for Water Supply and Sewer Service Projects), Chapter 17, if the political subdivision submits a request for temporary continuation of funding and the Texas Water Development Board (board) makes certain determinations set forth in this subsection, notwithstanding Section 16.343(g) or 16.350(a) (requiring a political subdivision, or county or municipality that applies for or receives funds or financial assistance under Section 15.407 of this code or Subchapter K, Chapter 17, of this code, to adopt the model rules pursuant to Section 16.343 before a fund application may be considered by the board).

(e) Requires the board, in applying Subsection (d) to applications for increased financial assistance, to consider only areas that were included in the initial application, except that it is authorized to reconsider the eligibility of areas that were the subject of a facility plan in the initial application and may be determined to be eligible based on criteria in effect September 1, 2005.

(f) Requires the political subdivision to take necessary and appropriate actions to correct any deficiencies in its adoption and enforcement of the model rules within the time period required by the board, not to exceed the 90-day period described by Subsection (d)(4), and provide evidence of compliance to the board. Requires the board to discontinue funding unless it makes a determination based on the evidence provided that the political subdivision has demonstrated sufficient compliance to continue funding.

(g) Requires the board, if the board determines that a county or city that is required to adopt and enforce the model rules is not enforcing the model rules, to discontinue funding for all projects within the county or city that are funded under Subchapter K, Chapter 17, except as provided by Subsections (d)-(f).

(h) Prohibits the board from accepting or granting applications for temporary funding under Subsection (d) after June 1, 2009.

(i) Provides that Subsections (d), (e), (f), (g), and (h) and this subsection expire September 1, 2009.

SECTION 18. Repealer: Section 232.029(f) (authorizing a person to obtain a certificate authorizing utilities to serve certain lands that were not subdivided after September 1, 1995, only if the person provides to the commissioners court an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after certain dates), Local Government Code.

SECTION 19. Effective date: upon passage or September 1, 2007.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 14, 2007

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3068** by Guillen (Relating to the authority and responsibilities of certain political subdivisions in relation to development.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend various chapters of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border. The bill would also amend Chapter 16 of the Water Code to permit the Texas Water Development Board (TWDB) to grant a request for temporary continuation of funding for a political subdivision that receives funds under Subchapter K, Chapter 17, Water Code (concerning the Economically Distressed Areas Program) if certain conditions are met. This provision expires on September 1, 2009.

The bill would authorize a county that includes territory located within 50 miles of an international border or certain municipalities within the county to regulate residential land development (for counties, in the unincorporated areas of the county and for municipalities, in the extraterritorial jurisdiction). Regulation authority would not apply if a tract of land is appraised as agricultural or open-space and would not apply to regulating commercial property that is uninhabitable. The county or municipality would be required to issue building permits for the applicable areas and would be authorized to charge a reasonable building permit fee. Fees collected would be deposited into the local government entity's general fund and could be used only for administering the building permit program. The act of violating land development restrictions imposed by a county or municipality in the applicable areas would be a Class C misdemeanor.

The TWDB anticipates that approximately three to five Economically Distressed Areas Program (EDAP) projects may be affected by the proposed changes to Chapter 16 of the Water Code. The agency expects that approximately 0.25 FTEs (Attorney IV) would be needed to carry out the work anticipated by the provision during the effective two year period for a total cost of approximately \$50,000 for the biennium. It is anticipated that this cost can be absorbed with existing agency resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board

LBB Staff: JOB, CL, ZS, JF

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 13, 2007

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority and responsibilities of certain political subdivisions in relation to development.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend various chapters of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border. The bill would also amend Chapter 16 of the Water Code to permit the Texas Water Development Board (TWDB) to grant a request for temporary continuation of funding for a political subdivision that receives funds under Subchapter K, Chapter 17, Water Code (concerning the Economically Distressed Areas Program) if certain conditions are met. This provision expires on September 1, 2009.

The TWDB anticipates that approximately three to five Economically Distressed Areas Program (EDAP) projects may be affected by this provision. The agency expects that approximately 0.25 FTEs (Attorney IV) would be needed to carry out the work anticipated by the provision during the effective two year period for a total cost of approximately \$50,000 for the biennium. It is anticipated that this cost can be absorbed with existing agency resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board

LBB Staff: JOB, CL, ZS, JF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 17, 2007

TO: Honorable Tracy King, Chair, House Committee on Border & International Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority of certain municipalities and counties to regulate subdivision near an international border.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Chapters 212 and 232 of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, CL, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 28, 2007

TO: Honorable Tracy King, Chair, House Committee on Border & International Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority of certain municipalities and counties to regulate subdivisions near an international border.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Chapters 212 and 232 of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, CL, DB

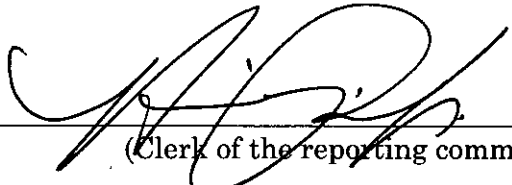
REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR KIM BRIMER, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that HB 3068, by ZAFFIRINI,
(Bill No.) (Author/Sponsor),

was heard by the Committee on International Relations and Trade on May 14,
2007,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.


(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A COMMITTEE PRINTED VERSION OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.

ADOPTED

MAY 22 2007

Robert S. Lewis
Secretary of the Senate

By: *Zaffini*

H.B. No. 3068

Substitute the following for H.B. No. 3068:

By: *Lucio*

C.S.H.B. No. 3068

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authority and responsibilities of certain political
3 subdivisions in relation to development.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 81.033(b), Local Government Code, is
6 amended to read as follows:

7 (b) If approved at an election held in the county for that
8 purpose, the commissioners court has, in addition to the powers
9 given to it under this code or other law, all the powers of the
10 governing body of a Type A general-law municipality, including the
11 powers contained in Subtitle A, Title 7, except that:

12 (1) the commissioners court may not regulate an
13 activity outside the county;

14 (2) the commissioners court may not regulate a tract
15 of land that is appraised as agricultural or open-space land by the
16 appraisal district;

17 (3) the commissioners court may not exercise the
18 powers of a municipality under Chapter 211 [~~or 213~~]; and

19 (4) if this code or other law provides for a procedure
20 by which a county exercises a power, the commissioners court must
21 use that procedure.

22 SECTION 2. Section 212.012, Local Government Code, is
23 amended by amending Subsections (a), (c), (d), (e), (f), (h), and
24 (i) and adding Subsections (j) and (k) to read as follows:

1 (a) Except as provided by Subsection (c), (d), or (j)
2 ~~[Subsection (c)]~~, an entity described by Subsection (b) may not
3 serve or connect any land with water, sewer, electricity, gas, or
4 other utility service unless the entity has been presented with or
5 otherwise holds a certificate applicable to the land issued under
6 Section 212.0115.

7 (c) An entity described by Subsection (b) may serve or
8 connect land with water, sewer, electricity, gas, or other utility
9 service regardless of whether the entity is presented with or
10 otherwise holds a certificate applicable to the land issued under
11 Section 212.0115 if:

12 (1) the land is covered by a development plat approved
13 under Subchapter B or under an ordinance or rule relating to the
14 development plat;

15 (2) the land was first served or connected with
16 service by an entity described by Subsection (b)(1), (b)(2), or
17 (b)(3) before September 1, 1987; or

18 (3) the land was first served or connected with
19 service by an entity described by Subsection (b)(4), (b)(5), or
20 (b)(6) before September 1, 1989~~[, or~~

21 ~~[(4) the municipal authority responsible for~~
22 ~~approving plats issues a certificate stating that:~~

23 ~~[(A) the land:~~

24 ~~[(i) was sold or conveyed to the person~~
25 ~~requesting service by any means of conveyance, including a contract~~
26 ~~for deed or executory contract, before:~~

27 ~~[(a) September 1, 1995, in a county~~

1 ~~defined under Section 232.022(a)(1), or~~

2 ~~[(b) September 1, 2005, in a county~~
3 ~~defined under Section 232.022(a)(2),~~

4 ~~[(ii) is located in a subdivision in which~~
5 ~~the entity has previously provided service,~~

6 ~~[(iii) is located outside the limits of the~~
7 ~~municipality,~~

8 ~~[(iv) is located in a county to which~~
9 ~~Subchapter B, Chapter 232, applies, and~~

10 ~~[(v) is the site of construction of a~~
11 ~~residence, evidenced by at least the existence of a completed~~
12 ~~foundation, that was begun on or before.~~

13 ~~[(a) May 1, 1997, in a county defined~~
14 ~~under Section 232.022(a)(1), or~~

15 ~~[(b) September 1, 2005, in a county~~
16 ~~defined under Section 232.022(a)(2), or~~

17 ~~[(B) the land was not subdivided after September~~
18 ~~1, 1995, in a county defined under Section 232.022(a)(1), or~~
19 ~~September 1, 2005, in a county defined under Section 232.022(a)(2),~~
20 ~~and.~~

21 ~~[(i) water service is available within 750~~
22 ~~feet of the subdivided land, or~~

23 ~~[(ii) water service is available more than~~
24 ~~750 feet from the subdivided land and the extension of water service~~
25 ~~to the land may be feasible, subject to a final determination by the~~
26 ~~water service provider].~~

27 (d) In a county to which Subchapter B, Chapter 232, applies,

1 an entity described by Subsection (b) may serve or connect land with
2 water, sewer, electricity, gas, or other utility service that is
3 located in the extraterritorial jurisdiction of a municipality
4 regardless of whether the entity is presented with or otherwise
5 holds a certificate applicable to the land issued under Section
6 212.0115, if the municipal authority responsible for approving
7 plats issues a certificate stating that:

8 (1) the subdivided land:

9 (A) was sold or conveyed by a subdivider or
10 developer by any means of conveyance, including a contract for deed
11 or executory contract, before:

12 (i) September 1, 1995, in a county defined
13 under Section 232.022(a)(1);

14 (ii) September 1, 1999, in a county defined
15 under Section 232.022(a)(1) if, on August 31, 1999, the subdivided
16 land was located in the extraterritorial jurisdiction of a
17 municipality as determined by Chapter 42; or

18 (iii) September 1, 2005, in a county
19 defined under Section 232.022(a)(2);

20 (B) has not been subdivided after September 1,
21 1995, September 1, 1999, or September 1, 2005, as applicable under
22 Paragraph (A);

23 (C) is the site of construction of a residence,
24 evidenced by at least the existence of a completed foundation, that
25 was begun on or before:

26 (i) May 1, 2003, in a county defined under
27 Section 232.022(a)(1); or

1 (ii) September 1, 2005, in a county defined
2 under Section 232.022(a)(2); and

3 (D) has had adequate sewer services installed to
4 service the lot or dwelling;

5 (2) the subdivided land is a lot of record as defined
6 by Section 232.021(6-a) that is located in a county defined by
7 Section 232.022(a)(1) and has adequate sewer services installed
8 that are fully operable to service the lot or dwelling; or

9 (3) the land was not subdivided after September 1,
10 1995, in a county defined under Section 232.022(a)(1), or September
11 1, 2005, in a county defined under Section 232.022(a)(2), and:

12 (A) water service is available within 750 feet of
13 the subdivided land; or

14 (B) water service is available more than 750 feet
15 from the subdivided land and the extension of water service to the
16 land may be feasible, subject to a final determination by the water
17 service provider.

18 (e) An entity described by Subsection (b) may provide
19 utility service to land described by Subsection (d)(1), (2), or (3)
20 ~~[Subsection (c)(4)(A)]~~ only if the person requesting service:

21 (1) is not the land's subdivider or developer or the
22 subdivider's or developer's agent; and:

23 (2) provides to the entity a certificate described by
24 Subsection (d) ~~[(c)(4)(A)]~~.

25 (f) ~~[(c)]~~ A person requesting service may obtain a
26 certificate under Subsection (d)(1), (2), or (3) ~~[Subsection~~
27 ~~(c)(4)(A)]~~ only if the person is the owner or purchaser of the

1 subdivided land and provides to the municipal authority responsible
2 for approving plats documentation containing ~~[either]:~~

3 (1) a copy of the means of conveyance or other
4 documents that show that the land was sold or conveyed by a
5 subdivider or developer ~~[to the person requesting service]~~ before
6 September 1, 1995, before September 1, 1999, or before September 1,
7 2005, as applicable under Subsection (d) ~~[, and a notarized~~
8 ~~affidavit by that person that states that construction of a~~
9 ~~residence on the land, evidenced by at least the existence of a~~
10 ~~completed foundation, was begun on or before May 1, 1997, or on or~~
11 ~~before September 1, 2005, as applicable]; [or]~~

12 (2) for a certificate issued under Subsection (d)(1),
13 a notarized affidavit by the person requesting service that states
14 that ~~[the property was sold or conveyed to that person before~~
15 ~~September 1, 1995, or before September 1, 2005, as applicable, and~~
16 ~~that]~~ construction of a residence on the land, evidenced by at least
17 the existence of a completed foundation, was begun on or before May
18 1, 2003, in a county defined by Section 232.022(a)(1) or September
19 1, 2005, in a county defined by Section 232.022(a)(2), and the
20 request for utility connection or service is to connect or serve a
21 residence described by Subsection (d)(1)(C);

22 (3) a notarized affidavit by the person requesting
23 service that states that the subdivided land has not been further
24 subdivided after September 1, 1995, September 1, 1999, or September
25 1, 2005, as applicable under Subsection (d); and

26 (4) evidence that adequate sewer service or facilities
27 have been installed and are fully operable to service the lot or

1 dwelling from an entity described by Subsection (b) or the
2 authorized agent responsible for the licensing or permitting of
3 on-site sewage facilities under Chapter 366, Health and Safety
4 Code. [May 1, 1997, or on or before September 1, 2005, as
5 applicable.

6 ~~[(f) A person requesting service may obtain a certificate~~
7 ~~under Subsection (c)(4)(B) only if the person provides to the~~
8 ~~municipal authority responsible for approving plats an affidavit~~
9 ~~that states that the property was not sold or conveyed to that~~
10 ~~person from a subdivider or the subdivider's agent after September~~
11 ~~1, 1995, or after September 1, 2005, as applicable.]~~

12 (h) This section may not be construed to abrogate any civil
13 or criminal proceeding or prosecution or to waive any penalty
14 against a subdivider or developer for a violation of a state or
15 local law, regardless of the date on which the violation occurred.

16 (i) In this section:

17 (1) "Developer" has the meaning assigned by Section
18 232.021.

19 (2) "Foundation" means the lowest division of a
20 residence, usually consisting of a masonry slab or a pier and beam
21 structure, that is partly or wholly below the surface of the ground
22 and on which the residential structure rests.

23 (3) [(+2)] "Subdivider" has the meaning assigned by
24 Section 232.021.

25 (j) Except as provided by Subsection (k), this section does
26 not prohibit a water or sewer utility from providing in a county
27 defined by Section 232.022(a)(1) water or sewer utility connection

1 or service to a residential dwelling that:

2 (1) is provided water or wastewater facilities under
3 or in conjunction with a federal or state funding program designed
4 to address inadequate water or wastewater facilities in colonias or
5 to residential lots located in a county described by Section
6 232.022(a)(1);

7 (2) is an existing dwelling identified as an eligible
8 recipient for funding by the funding agency providing adequate
9 water and wastewater facilities or improvements;

10 (3) when connected, will comply with the minimum state
11 standards for both water and sewer facilities and as prescribed by
12 the model subdivision rules adopted under Section 16.343, Water
13 Code; and

14 (4) is located in a project for which the political
15 subdivisions with jurisdiction over the project or the approval of
16 plats within the project area have approved the improvement project
17 by order, resolution, or interlocal agreement under Chapter 791,
18 Government Code.

19 (k) A utility may not serve any subdivided land with water
20 utility connection or service under Subsection (j) unless the
21 entity receives a determination that adequate sewer services have
22 been installed to service the lot or dwelling from the municipal
23 authority responsible for approving plats, an entity described by
24 Subsection (b), or the authorized agent responsible for the
25 licensing or permitting of on-site sewage facilities pursuant to
26 Chapter 366, Health and Safety Code.

27 SECTION 3. Chapter 231, Local Government Code, is amended

1 by adding Subchapter L to read as follows:

2 SUBCHAPTER L. ZONING AROUND FALCON LAKE

3 Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The
4 legislature finds that:

5 (1) the area that surrounds Falcon Lake in Zapata
6 County is frequented for recreational purposes by residents from
7 every part of the state;

8 (2) orderly development and use of the area is of
9 concern to the entire state; and

10 (3) buildings in the area that are frequented for
11 resort or recreational purposes tend to become congested and to be
12 used in ways that interfere with the proper use of the area as a
13 place of recreation to the detriment of the public health, safety,
14 morals, and general welfare.

15 (b) The powers granted under this subchapter are for the
16 purpose of promoting the public health, safety, peace, morals, and
17 general welfare and encouraging the recreational use of county
18 land.

19 Sec. 231.252. AREAS SUBJECT TO REGULATION. This
20 subchapter applies only to the unincorporated area of Zapata County
21 located within 25,000 feet of:

22 (1) the project boundary line for Falcon Lake; and

23 (2) the Rio Grande.

24 Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake
25 planning commission is established for the area subject to this
26 subchapter. The commission is composed of:

27 (1) four residents of Zapata County, with one resident

1 from each of the county commissioners precincts, appointed by that
2 precinct's commissioner; and

3 (2) a person, who shall serve as the commission's
4 presiding officer, appointed by the county judge of Zapata County.

5 (b) Except as provided by Subsection (c), the members of the
6 commission shall be appointed for two-year terms that expire
7 February 1 of each odd-numbered year.

8 (c) The terms of the initial members of the commission
9 expire on February 1 of the first February in an odd-numbered year
10 following their appointment.

11 (d) The Commissioners Court of Zapata County may employ
12 staff for the commission to use in performing the commission's
13 functions.

14 Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) At
15 the request of the Commissioners Court of Zapata County the
16 commission shall, or on the lake planning commission's own
17 initiative the commission may, conduct studies of the area subject
18 to this subchapter and prepare reports to advise the commissioners
19 court about matters affecting that area, including any need for
20 zoning regulations in that area.

21 (b) Before the commission may prepare a report, the
22 commission must hold a public hearing in which members of the public
23 may offer testimony regarding any subject to be included in the
24 commission's report. The commission shall provide notice of the
25 hearing as required by the commissioners court.

26 Sec. 231.255. ZONING REGULATIONS. After receiving a report
27 from the lake planning commission under Section 231.254, the

1 Commissioners Court of Zapata County may adopt zoning regulations
2 for the area subject to this subchapter and in accordance with the
3 report that regulate:

4 (1) the height, number of stories, and size of
5 buildings and other structures;

6 (2) the percentage of a lot that may be occupied;

7 (3) the size of yards, courts, and other open spaces;

8 (4) population density;

9 (5) the location and use of buildings, other
10 structures, and land for business, industrial, residential, or
11 other purposes; and

12 (6) the placement of water and sewage facilities,
13 parks, and other public requirements.

14 SECTION 4. Section 232.021, Local Government Code, is
15 amended by amending Subdivision (2) and adding Subdivisions (2-a),
16 (2-b), and (6-a) to read as follows:

17 (2) "Common promotional plan" means any plan or scheme
18 of operation undertaken by a single subdivider or developer or a
19 group of subdividers or developers acting in concert, either
20 personally or through an agent, to offer for sale or lease lots when
21 the land is:

22 (A) contiguous or part of the same area of land;

23 or

24 (B) known, designated, or advertised as a common
25 unit or by a common name.

26 (2-a) "Develop" means a structural improvement or
27 man-made change to a lot intended for residential use undertaken to

1 improve, enhance, or otherwise make suitable real property for
2 purposes of sale, resale, or lease.

3 (2-b) "Developer" means a person who owns any interest
4 in real property and directly or indirectly develops real property
5 in the ordinary course of business or as part of a common
6 promotional plan.

7 (6-a) "Lot of record" means:

8 (A) a lot, the boundaries of which were
9 established by a plat recorded in the office of the county clerk
10 before September 1, 1989, that has not been subdivided after
11 September 1, 1989; or

12 (B) a lot, the boundaries of which were
13 established by a metes and bounds description in a deed of
14 conveyance, a contract of sale, or other executory contract to
15 convey real property that has been legally executed and recorded in
16 the office of the county clerk before September 1, 1989, that has
17 not been subdivided after September 1, 1989.

18 SECTION 5. Section 232.024(b), Local Government Code, is
19 amended to read as follows:

20 (b) If any part of a plat applies to land intended for
21 residential housing and any part of that land lies in a floodplain,
22 the commissioners court shall not approve the plat unless:

23 (1) the subdivision is developed in compliance with
24 the minimum requirements of the National Flood Insurance Program
25 and local regulations or orders adopted under Section 16.315, Water
26 Code; and

27 (2) the plat evidences a restrictive covenant

1 ~~prohibiting [as required by this subsection. The restrictive~~
2 ~~covenant shall prohibit]~~ the construction of residential housing in
3 any area of the subdivision that is in a floodplain unless the
4 housing is developed in compliance with the minimum requirements of
5 ~~[qualifies for insurance under]~~ the National Flood Insurance
6 Program and local regulations or orders adopted under Section
7 16.315, Water Code [Act of 1968 (42 U.S.C. Sections 4001 through
8 4127)].

9 SECTION 6. Section 232.028(b), Local Government Code, is
10 amended to read as follows:

11 (b) On the commissioners court's own motion or on the
12 written request of a subdivider, an owner or resident of a lot in a
13 subdivision, or an entity that provides a utility service, the
14 commissioners court shall make the following determinations
15 regarding the land in which the entity or commissioners court is
16 interested that is located within the jurisdiction of the county:

17 (1) whether a plat has been prepared and whether it has
18 been reviewed and approved by the commissioners court;

19 (2) whether water service facilities have been
20 constructed or installed to service the lot or subdivision under
21 Section 232.023 and are fully operable;

22 (3) whether sewer service facilities have been
23 constructed or installed to service the lot or subdivision under
24 Section 232.023 and are fully operable, or if septic systems are
25 used, whether the lot is served by a permitted on-site sewage
26 facility or lots in the subdivision can be adequately and legally
27 served by septic systems under Section 232.023; and

1 (4) whether electrical and gas facilities, if
2 available, have been constructed or installed to service the lot or
3 subdivision under Section 232.023.

4 SECTION 7. Section 232.029, Local Government Code, is
5 amended by amending Subsections (b), (c), (d), (e), and (i) and
6 adding Subsections (k) and (l) to read as follows:

7 (b) Except as provided by Subsection (c) or Section
8 232.037(c), a utility may not serve or connect any subdivided land
9 with electricity or gas unless the entity receives a determination
10 from the county commissioners court under Sections 232.028(b)(2)
11 and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer
12 services have been installed to service the lot or subdivision.

13 (c) An electric, gas, water, or sewer service utility may
14 serve or connect subdivided land with water, sewer, electricity,
15 gas, or other utility service regardless of whether the utility
16 receives a certificate issued by the commissioners court under
17 Section 232.028(a) or receives a determination from the
18 commissioners court under Section 232.028(b) if the utility is
19 provided with a certificate issued by the commissioners court that
20 states that:

21 (1) the subdivided land:

22 (A) was sold or conveyed by a subdivider or
23 developer [~~to the person requesting service~~] by any means of
24 conveyance, including a contract for deed or executory contract:

25 (i) before September 1, 1995; or

26 (ii) before September 1, 1999, if the
27 subdivided land on August 31, 1999, was located in the

extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A); ~~[is located in a subdivision in which the utility has previously provided service, and]~~

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun[+

~~[(i) on or before May 1, 1997, or~~

~~[(ii)]~~ on or before May 1, 2003; and

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling~~[, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42]; or~~

(3) ~~[(2)]~~ the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land

1 described by Subsection (c)(1), (2), or (3) only if the person
2 requesting service:

3 (1) is not the land's subdivider or developer or the
4 subdivider's or developer's agent; and

5 (2) provides to the utility a certificate described by
6 Subsection (c) ~~[(c)(1)]~~.

7 (e) A person requesting service may obtain a certificate
8 under Subsection (c)(1), (2), or (3) only if the person is the owner
9 or purchaser of the subdivided land and provides to the
10 commissioners court documentation containing ~~[either]~~:

11 (1) ~~[documentation containing:~~

12 ~~[(A)]~~ a copy of the means of conveyance or other
13 documents that show that the land was sold or conveyed by a
14 subdivider or developer before September 1, 1995, or before
15 September 1, 1999, as applicable under Subsection (c);

16 (2) ~~[to the person requesting service:~~

17 ~~[(i) before September 1, 1995, or~~

18 ~~[(ii) before September 1, 1999, if the~~
19 ~~subdivided land on August 31, 1999, was located in the~~
20 ~~extraterritorial jurisdiction of a municipality as determined by~~
21 ~~Chapter 42; and~~

22 ~~[(B)]~~ a notarized affidavit by that person
23 requesting service under Subsection (c)(1) that states that
24 construction of a residence on the land, evidenced by at least the
25 existence of a completed foundation, was begun[+]

26 ~~[(i) on or before May 1, 1997, or~~

27 ~~[(ii)]~~ on or before May 1, 2003, and the

1 request for utility connection or service is to connect or serve a
2 residence described by Subsection (c)(1)(C);

3 (3) [~~, if the subdivided land on August 31, 1999, was~~
4 ~~located in the extraterritorial jurisdiction of a municipality as~~
5 ~~determined by Chapter 42, or~~

6 [~~(2)~~] a notarized affidavit by the person requesting
7 service that states that the subdivided land has not been further
8 subdivided after[+]

9 [~~(A) the property was sold or conveyed to that~~
10 ~~person.~~

11 [~~(i) before~~] September 1, 1995, [+] or
12 [~~(ii) before~~] September 1, 1999, as
13 applicable under Subsection (c); and

14 (4) evidence that adequate sewer service or facilities
15 have been installed and are fully operable to service the lot or
16 dwelling from an entity described by Section 232.021(14) or the
17 authorized agent responsible for the licensing or permitting of
18 on-site sewage facilities under Chapter 366, Health and Safety Code
19 [~~if the subdivided land on August 31, 1999, was located in the~~
20 ~~extraterritorial jurisdiction of a municipality as determined by~~
21 ~~Chapter 42, and~~

22 [~~(B) construction of a residence on the land,~~
23 ~~evidenced by at least the existence of a completed foundation, was~~
24 ~~begun.~~

25 [~~(i) on or before May 1, 1997, or~~
26 [~~(ii) on or before May 1, 2003, if the~~
27 ~~subdivided land on August 31, 1999, was located in the~~

1 ~~extraterritorial jurisdiction of a municipality as determined by~~
2 ~~Chapter 42].~~

3 (i) The prohibition established by this section shall not
4 prohibit a water, sewer, [an] electric, or gas utility from
5 providing water, sewer, electric, or gas utility connection or
6 service to a lot [being] sold, conveyed, or purchased through a
7 contract for deed or executory contract or other device by a
8 subdivider or developer prior to July 1, 1995, or September 1, 1999,
9 if on August 31, 1999, the subdivided land was located in the
10 extraterritorial jurisdiction of a municipality that has adequate
11 sewer services installed that are fully operable to service the lot
12 [which is located within a subdivision where the utility has
13 previously established service] and was subdivided by a plat
14 approved prior to September 1, 1989.

15 (k) Except as provided by Subsection (l), this section does
16 not prohibit a water or sewer utility from providing water or sewer
17 utility connection or service to a residential dwelling that:

18 (1) is provided water or wastewater facilities under
19 or in conjunction with a federal or state funding program designed
20 to address inadequate water or wastewater facilities in colonias or
21 to residential lots located in a county described by Section
22 232.022(a)(1);

23 (2) is an existing dwelling identified as an eligible
24 recipient for funding by the funding agency providing adequate
25 water and wastewater facilities or improvements;

26 (3) when connected, will comply with the minimum state
27 standards for both water and sewer facilities and as prescribed by

1 the model subdivision rules adopted under Section 16.343, Water
2 Code; and

3 (4) is located in a project for which the political
4 subdivisions with jurisdiction over the project or the approval of
5 plats within the project area have approved the improvement project
6 by order, resolution, or interlocal agreement under Chapter 791,
7 Government Code, if applicable.

8 (1) A utility may not serve any subdivided land with water
9 utility connection or service under Subsection (k) unless the
10 entity receives a determination from the county commissioners court
11 under Section 232.028(b)(3) that adequate sewer services have been
12 installed to service the lot or dwelling.

13 SECTION 8. Sections 232.031(a) and (b), Local Government
14 Code, are amended to read as follows:

15 (a) Except as provided by Subsection (d), a subdivider or
16 developer may not sell or lease land in a subdivision first platted
17 or replatted after July 1, 1995, unless the subdivision plat is
18 approved by the commissioners court in accordance with Section
19 232.024.

20 (b) Not later than the 30th day after the date a lot is sold,
21 a subdivider or developer shall record with the county clerk all
22 sales contracts, including the attached disclosure statement
23 required by Section 232.033, leases, and any other documents that
24 convey an interest in the subdivided land.

25 SECTION 9. Sections 232.035(a) and (b), Local Government
26 Code, are amended to read as follows:

27 (a) A subdivider or developer or an agent of a subdivider or

1 developer may not cause, suffer, allow, or permit a lot to be sold
2 in a subdivision if the subdivision has not been platted as required
3 by this subchapter.

4 (b) Notwithstanding any other remedy at law or equity, a
5 subdivider or developer or an agent of a subdivider or developer may
6 not cause, suffer, allow, or permit any part of a subdivision over
7 which the subdivider or developer or an agent of the subdivider or
8 developer has control, or a right of ingress and egress, to become a
9 public health nuisance as defined by Section 341.011, Health and
10 Safety Code.

11 SECTION 10. Section 232.036(a), Local Government Code, is
12 amended to read as follows:

13 (a) A subdivider or developer commits an offense if the
14 subdivider or developer knowingly fails to file a plat or replat
15 required by this subchapter. An offense under this subsection is a
16 Class A misdemeanor.

17 SECTION 11. Section 232.038(a), Local Government Code, is
18 amended to read as follows:

19 (a) Except as provided by Subsection (b), a person who has
20 purchased or is purchasing a lot after July 1, 1995, in a
21 subdivision for residential purposes that does not have water and
22 sewer services as required by this subchapter and is located in an
23 economically distressed area, as defined by Section 17.921, Water
24 Code, from a subdivider or developer, may bring suit in the district
25 court in which the property is located or in a district court in
26 Travis County to:

27 (1) declare the sale of the property void and require

1 the subdivider or developer to return the purchase price of the
2 property; and

3 (2) recover from the subdivider or developer:

4 (A) the market value of any permanent
5 improvements the person placed on the property;

6 (B) actual expenses incurred as a direct result
7 of the failure to provide adequate water and sewer facilities;

8 (C) court costs; and

9 (D) reasonable attorney's fees.

10 SECTION 12. Sections 232.040(a), (b), and (c), Local
11 Government Code, are amended to read as follows:

12 (a) A subdivision plat must accurately reflect the
13 subdivision as it develops. If there is any change, either by the
14 intentional act of the subdivider or developer or by the forces of
15 nature, including changes in the size or dimension of lots or the
16 direction or condition of the roads, a plat must be revised in
17 accordance with Section 232.041.

18 (b) Except as provided by Subsection (c), a lot in a
19 subdivision may not be sold if the lot lacks water and sewer
20 services as required by this subchapter unless the lot is platted or
21 replatted as required by this subchapter. A subdivider or
22 developer or agent of a subdivider or developer may not transfer a
23 lot through an executory contract or other similar conveyance to
24 evade the requirements of this subchapter. The prohibition in this
25 subsection includes the sale of a lot:

26 (1) by a subdivider or developer who regains
27 possession of a lot previously exempt under Subsection (c) through

1 the exercise of a remedy described in Section 5.061, Property Code;
2 or

3 (2) for which it is shown at a proceeding brought in
4 the district court in which the property is located that the sale of
5 a lot otherwise exempt under Subsection (c) was made for the purpose
6 of evading the requirements of this subchapter.

7 (c) Subsection (b) does not apply to ~~[if]~~ a seller other
8 than a subdivider, developer, or agent of a subdivider or developer
9 ~~[resides on the lot]~~.

10 SECTION 13. Chapter 242, Local Government Code, is amended
11 by adding Subchapter B to read as follows:

12 SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND
13 MUNICIPALITIES

14 Sec. 242.051. APPLICABILITY. This subchapter applies only
15 to:

16 (1) a county that includes territory located within 50
17 miles of an international border; or

18 (2) a municipality located in that county if:

19 (A) the county does not exercise in the
20 municipality's extraterritorial jurisdiction the authority
21 described by this subchapter; and

22 (B) the county by resolution authorizes the
23 municipality to exercise in the municipality's extraterritorial
24 jurisdiction the authority described by this subchapter.

25 Sec. 242.052. REGULATORY AUTHORITY. (a) The
26 commissioners court of a county to which this subchapter applies
27 may, by order, regulate residential land development in the

1 unincorporated area of the county. The governing body of a
2 municipality to which this subchapter applies may, by ordinance,
3 regulate residential land development in the municipality's
4 extraterritorial jurisdiction. By this authority, the
5 commissioners court or governing body may prevent the proliferation
6 of colonias by:

7 (1) adopting regulations relating to:

8 (A) maximum densities, including the size of
9 lots;

10 (B) the height, number of stories, size, or
11 number of buildings or other structures that may be located on a lot
12 or tract;

13 (C) the location of buildings and other
14 structures on a lot or tract;

15 (D) the preparation of a plan for:

16 (i) utility development;

17 (ii) environmental effect and adaptation;

18 (iii) utility extension; and

19 (iv) capacity planning; and

20 (E) financial analysis provided for a plan
21 prepared under Paragraph (D); and

22 (2) adopting building codes to promote safe and
23 uniform building, plumbing, and electrical standards.

24 (b) If a tract of land is appraised as agricultural or
25 open-space land by the appraisal district, the commissioners court
26 or governing body may not regulate land development on that tract
27 under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or

1 (a)(2).

2 (c) The authority granted under this section does not
3 authorize the commissioners court or governing body to adopt an
4 order regulating commercial property that is uninhabitable.

5 (d) The authority granted under this section does not
6 authorize the commissioners court or governing body to adopt an
7 order that limits or otherwise impairs the rights of individuals or
8 entities in the exploration, development, or production of oil,
9 gas, or other minerals.

10 Sec. 242.053. BUILDING PERMITS. (a) The county or
11 municipality, as appropriate, shall issue a building permit if the
12 person submitting the application for the permit:

13 (1) files information relating to the location of the
14 residence;

15 (2) files the building plans for the residence; and

16 (3) complies with the applicable regulations relating
17 to the issuance of the permit.

18 (b) The county or municipality may charge a reasonable
19 building permit fee.

20 (c) The county or municipality shall deposit fees collected
21 under this section in an account in its general fund and dedicate
22 the fees to the building permit program. The funds in the account
23 may be used only for the purpose of administering the building
24 permit program.

25 Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
26 ORDER. If an order adopted by the county under this subchapter
27 conflicts with an ordinance of a municipality, the municipal

1 ordinance prevails within the municipality's jurisdiction to the
2 extent of the conflict.

3 Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority
4 granted by this subchapter does not affect the authority of the
5 commissioners court or governing body to adopt an order or
6 ordinance under other law.

7 Sec. 242.056. INJUNCTION. The county or municipality, in a
8 suit brought by the appropriate attorney representing the county or
9 municipality in the district court, is entitled to appropriate
10 injunctive relief to prevent the violation or threatened violation
11 of the entity's order or ordinance adopted under this subchapter
12 from continuing or occurring.

13 Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an
14 offense if the person violates a restriction or prohibition imposed
15 by an order or ordinance adopted under this subchapter. An offense
16 under this section is a Class C misdemeanor.

17 (b) It is an exception to the application of this section
18 that:

19 (1) the person is an owner-occupant of a residential
20 dwelling that is classified by the Texas Department of Housing and
21 Community Affairs as a low-income household;

22 (2) the dwelling was constructed before the effective
23 date of this subchapter;

24 (3) the violation related to a building standard or
25 building code for that dwelling; and

26 (4) the county or municipality, as appropriate:

27 (A) did not make available to the person a grant

1 or loan in an amount sufficient to cure the violation; or

2 (B) made available to the person a loan that was
3 sufficient to cure the violation but that caused the housing
4 expenses of the person to exceed 30 percent of the person's net
5 income.

6 SECTION 14. The heading to Chapter 242, Local Government
7 Code, is amended to read as follows:

8 CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE

9 SUBDIVISIONS AND PROPERTY DEVELOPMENT [~~IN AND OUTSIDE~~

10 ~~MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION~~]

11 SECTION 15. Chapter 242, Local Government Code, is amended
12 by designating Sections 242.001, 242.0015, and 242.002 as
13 Subchapter A and adding a heading for Subchapter A to read as
14 follows:

15 SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE

16 MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

17 SECTION 16. Subchapter B, Chapter 412, Local Government
18 Code, is amended by adding Section 412.017 to read as follows:

19 Sec. 412.017. WATER SUPPLY AND SEWAGE SYSTEM FOR CERTAIN
20 BORDER COUNTIES. (a) This section applies only to a county:

21 (1) that is located adjacent to an international
22 border; and

23 (2) in which a military installation is located.

24 (b) The commissioners court of a county to which this
25 section applies may acquire, construct, or operate a water supply
26 system or sewage system to serve:

27 (1) unincorporated areas of the county; and

1 (2) areas initially included in a municipality on or
2 after September 1, 2007, in which the municipality does not provide
3 water or sewer services.

4 (c) The county may enter a management or lease agreement
5 with another public or private entity for the operation of a county
6 water or sewage system acquired or constructed under this section.

7 (d) The county may apply for and receive grants or other
8 assistance from a state or federal governmental entity to implement
9 this section.

10 (e) The county may own, operate, or maintain a water or
11 sewer utility in the same manner as a municipality under Chapter
12 402.

13 (f) A county may not construct, operate, or maintain a water
14 supply system or sewage system in an area previously served by the
15 county's water supply or sewage system after the area is annexed by
16 a municipality and the municipality begins providing to the area
17 water or sewer services previously provided by the county.

18 SECTION 17. Section 16.344, Water Code, is amended by
19 adding Subsections (d), (e), (f), (g), (h), and (i) to read as
20 follows:

21 (d) Notwithstanding Section 16.343(g) or Section 16.350(a),
22 a political subdivision may temporarily continue to receive funds
23 under Subchapter K, Chapter 17, if the political subdivision
24 submits a request for temporary continuation of funding and the
25 board determines that:

26 (1) the political subdivision's initial funding
27 application and any amendments for a designated area were reviewed

1 and approved by the board before January 1, 2007;

2 (2) withholding funds would result in an undue
3 hardship for occupants of the property to be served by unreasonably
4 delaying the provision of adequate water or wastewater services;

5 (3) withholding funds would result in inefficient use
6 of local, state, or federal funds under the program;

7 (4) the political subdivision has committed to take
8 the necessary and appropriate actions to correct any deficiencies
9 in adoption or enforcement of the model rules within the time
10 designated by the board, but not later than the 90th day after the
11 date the board makes the determinations under this subsection;

12 (5) the political subdivision has sufficient
13 safeguards in place to prevent the proliferation of colonias; and

14 (6) during the 30 days after the date the board
15 receives a request under this subsection, the board, after
16 consulting with the attorney general, secretary of state, and
17 commission, has not received an objection from any of those
18 entities to the request for temporary continuation of funding.

19 (e) In applying Subsection (d) to applications for
20 increased financial assistance, the board shall only consider areas
21 that were included in the initial application, except that the
22 board may reconsider the eligibility of areas that were the subject
23 of a facility plan in the initial application and that may be
24 determined to be eligible based on criteria in effect September 1,
25 2005.

26 (f) The political subdivision shall take necessary and
27 appropriate actions to correct any deficiencies in its adoption and

1 enforcement of the model rules within the time period required by
2 the board, not to exceed the 90-day period described by Subsection
3 (d)(4), and provide evidence of compliance to the board. The board
4 shall discontinue funding unless the board makes a determination
5 based on the evidence provided that the political subdivision has
6 demonstrated sufficient compliance to continue funding.

7 (g) Except as provided by Subsections (d)-(f), if the board
8 determines that a county or city that is required to adopt and
9 enforce the model rules is not enforcing the model rules, the board
10 shall discontinue funding for all projects within the county or
11 city that are funded under Subchapter K, Chapter 17.

12 (h) The board may not accept or grant applications for
13 temporary funding under Subsection (d) after June 1, 2009.

14 (i) Subsections (d), (e), (f), (g), and (h) and this
15 subsection expire September 1, 2009.

16 SECTION 18. Section 232.029(f), Local Government Code, is
17 repealed.

18 SECTION 19. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 14, 2007

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority and responsibilities of certain political subdivisions in relation to development.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend various chapters of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border. The bill would also amend Chapter 16 of the Water Code to permit the Texas Water Development Board (TWDB) to grant a request for temporary continuation of funding for a political subdivision that receives funds under Subchapter K, Chapter 17, Water Code (concerning the Economically Distressed Areas Program) if certain conditions are met. This provision expires on September 1, 2009.

The bill would authorize a county that includes territory located within 50 miles of an international border or certain municipalities within the county to regulate residential land development (for counties, in the unincorporated areas of the county and for municipalities, in the extraterritorial jurisdiction). Regulation authority would not apply if a tract of land is appraised as agricultural or open-space and would not apply to regulating commercial property that is uninhabitable. The county or municipality would be required to issue building permits for the applicable areas and would be authorized to charge a reasonable building permit fee. Fees collected would be deposited into the local government entity's general fund and could be used only for administering the building permit program. The act of violating land development restrictions imposed by a county or municipality in the applicable areas would be a Class C misdemeanor.

The TWDB anticipates that approximately three to five Economically Distressed Areas Program (EDAP) projects may be affected by the proposed changes to Chapter 16 of the Water Code. The agency expects that approximately 0.25 FTEs (Attorney IV) would be needed to carry out the work anticipated by the provision during the effective two year period for a total cost of approximately \$50,000 for the biennium. It is anticipated that this cost can be absorbed with existing agency resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board

LBB Staff: JOB, CL, ZS, JF

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 13, 2007

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority and responsibilities of certain political subdivisions in relation to development.), **As Engrossed**

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SENATE AMENDMENTS

2nd Printing

07 MAY 22 PM 5:09

HOUSE OF REPRESENTATIVES

By: Guillen

H.B. No. 3068

A BILL TO BE ENTITLED

AN ACT

relating to the authority and responsibilities of certain political subdivisions in relation to development.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 81.033(b), Local Government Code, is amended to read as follows:

(b) If approved at an election held in the county for that purpose, the commissioners court has, in addition to the powers given to it under this code or other law, all the powers of the governing body of a Type A general-law municipality, including the powers contained in Subtitle A, Title 7, except that:

(1) the commissioners court may not regulate an activity outside the county;

(2) the commissioners court may not regulate a tract of land that is appraised as agricultural or open-space land by the appraisal district;

(3) the commissioners court may not exercise the powers of a municipality under Chapter 211 [~~ex-213~~]; and

(4) if this code or other law provides for a procedure by which a county exercises a power, the commissioners court must use that procedure.

SECTION 2. Section 212.012, Local Government Code, is amended by amending Subsections (a), (c), (d), (e), (f), (h), and (i) and adding Subsections (j) and (k) to read as follows:

1 (a) Except as provided by Subsection (c), (d), or (j)
2 ~~[Subsection (e)]~~, an entity described by Subsection (b) may not
3 serve or connect any land with water, sewer, electricity, gas, or
4 other utility service unless the entity has been presented with or
5 otherwise holds a certificate applicable to the land issued under
6 Section 212.0115.

7 (c) An entity described by Subsection (b) may serve or
8 connect land with water, sewer, electricity, gas, or other utility
9 service regardless of whether the entity is presented with or
10 otherwise holds a certificate applicable to the land issued under
11 Section 212.0115 if:

12 (1) the land is covered by a development plat approved
13 under Subchapter B or under an ordinance or rule relating to the
14 development plat;

15 (2) the land was first served or connected with
16 service by an entity described by Subsection (b)(1), (b)(2), or
17 (b)(3) before September 1, 1987; or

18 (3) the land was first served or connected with
19 service by an entity described by Subsection (b)(4), (b)(5), or
20 (b)(6) before September 1, 1989~~[-or~~

21 ~~[(4) the municipal authority responsible for~~
22 ~~approving plats issues a certificate stating that:~~

23 ~~[(A) the land:~~

24 ~~[(i) was sold or conveyed to the person~~
25 ~~requesting service by any means of conveyance, including a contract~~
26 ~~for deed or executory contract, before:~~

27 ~~[(a) September 1, 1995, in a county~~

~~defined under Section 232.022(a)(1), or~~

~~[(b) September 1, 2005, in a county
defined under Section 232.022(a)(2),~~

~~[(ii) is located in a subdivision in which
the entity has previously provided service,~~

~~[(iii) is located outside the limits of the
municipality,~~

~~[(iv) is located in a county to which
Subchapter B, Chapter 232, applies, and~~

~~[(v) is the site of construction of a
residence, evidenced by at least the existence of a completed
foundation, that was begun on or before:~~

~~[(a) May 1, 1997, in a county defined
under Section 232.022(a)(1), or~~

~~[(b) September 1, 2005, in a county
defined under Section 232.022(a)(2), or~~

~~[(B) the land was not subdivided after September
1, 1995, in a county defined under Section 232.022(a)(1), or
September 1, 2005, in a county defined under Section 232.022(a)(2),
and.~~

~~[(i) water service is available within 750
feet of the subdivided land, or~~

~~[(ii) water service is available more than
750 feet from the subdivided land and the extension of water service
to the land may be feasible, subject to a final determination by the
water service provider].~~

(d) In a county to which Subchapter B, Chapter 232, applies,

1 an entity described by Subsection (b) may serve or connect land with
2 water, sewer, electricity, gas, or other utility service that is
3 located in the extraterritorial jurisdiction of a municipality
4 regardless of whether the entity is presented with or otherwise
5 holds a certificate applicable to the land issued under Section
6 212.0115, if the municipal authority responsible for approving
7 plats issues a certificate stating that:

8 (1) the subdivided land:

9 (A) was sold or conveyed by a subdivider or
10 developer by any means of conveyance, including a contract for deed
11 or executory contract, before:

12 (i) September 1, 1995, in a county defined
13 under Section 232.022(a)(1);

14 (ii) September 1, 1999, in a county defined
15 under Section 232.022(a)(1) if, on August 31, 1999, the subdivided
16 land was located in the extraterritorial jurisdiction of a
17 municipality as determined by Chapter 42; or

18 (iii) September 1, 2005, in a county
19 defined under Section 232.022(a)(2);

20 (B) has not been subdivided after September 1,
21 1995, September 1, 1999, or September 1, 2005, as applicable under
22 Paragraph (A);

23 (C) is the site of construction of a residence,
24 evidenced by at least the existence of a completed foundation, that
25 was begun on or before:

26 (i) May 1, 2003, in a county defined under
27 Section 232.022(a)(1); or

1 (ii) September 1, 2005, in a county defined
2 under Section 232.022(a)(2); and

3 (D) has had adequate sewer services installed to
4 service the lot or dwelling;

5 (2) the subdivided land is a lot of record as defined
6 by Section 232.021(6-a) that is located in a county defined by
7 Section 232.022(a)(1) and has adequate sewer services installed
8 that are fully operable to service the lot or dwelling; or

9 (3) the land was not subdivided after September 1,
10 1995, in a county defined under Section 232.022(a)(1), or September
11 1, 2005, in a county defined under Section 232.022(a)(2), and:

12 (A) water service is available within 750 feet of
13 the subdivided land; or

14 (B) water service is available more than 750 feet
15 from the subdivided land and the extension of water service to the
16 land may be feasible, subject to a final determination by the water
17 service provider.

18 (e) An entity described by Subsection (b) may provide
19 utility service to land described by Subsection (d)(1), (2), or (3)
20 [Subsection (c)(4)(A)] only if the person requesting service:

21 (1) is not the land's subdivider or developer or the
22 subdivider's or developer's agent; and

23 (2) provides to the entity a certificate described by
24 Subsection (d) [Subsection (c)(4)(A)].

25 (f) ~~[(e)]~~ A person requesting service may obtain a
26 certificate under Subsection (d)(1), (2), or (3) [Subsection
27 Subsection (c)(4)(A)] only if the person is the owner or purchaser of the

1 subdivided land and provides to the municipal authority responsible
2 for approving plats documentation containing ~~[either]:~~

3 (1) a copy of the means of conveyance or other
4 documents that show that the land was sold or conveyed by a
5 subdivider or developer ~~[to the person requesting service]~~ before
6 September 1, 1995, before September 1, 1999, or before September 1,
7 2005, as applicable under Subsection (d) ~~[, and a notarized~~
8 ~~affidavit by that person that states that construction of a~~
9 ~~residence on the land, evidenced by at least the existence of a~~
10 ~~completed foundation, was begun on or before May 1, 1997, or on or~~
11 ~~before September 1, 2005, as applicable]; [or]~~

12 (2) for a certificate issued under Subsection (d)(1),
13 a notarized affidavit by the person requesting service that states
14 that ~~[the property was sold or conveyed to that person before~~
15 ~~September 1, 1995, or before September 1, 2005, as applicable, and~~
16 ~~that]~~ construction of a residence on the land, evidenced by at least
17 the existence of a completed foundation, was begun on or before May
18 1, 2003, in a county defined by Section 232.022(a)(1) or September
19 1, 2005, in a county defined by Section 232.022(a)(2), and the
20 request for utility connection or service is to connect or serve a
21 residence described by Subsection (d)(1)(C);

22 (3) a notarized affidavit by the person requesting
23 service that states that the subdivided land has not been further
24 subdivided after September 1, 1995, September 1, 1999, or September
25 1, 2005, as applicable under Subsection (d); and

26 (4) evidence that adequate sewer service or facilities
27 have been installed and are fully operable to service the lot or

dwelling from an entity described by Subsection (b) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code. ~~[May 1, 1997, or on or before September 1, 2005, as applicable.]~~

~~[(f) A person requesting service may obtain a certificate under Subsection (c)(4)(B) only if the person provides to the municipal authority responsible for approving plats an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 1995, or after September 1, 2005, as applicable.]~~

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider or developer for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) In this section:

(1) "Developer" has the meaning assigned by Section 232.021.

(2) "Foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(3) ~~[(2)]~~ "Subdivider" has the meaning assigned by Section 232.021.

(j) Except as provided by Subsection (k), this section does not prohibit a water or sewer utility from providing in a county defined by Section 232.022(a)(1) water or sewer utility connection

1 or service to a residential dwelling that:

2 (1) is provided water or wastewater facilities under
3 or in conjunction with a federal or state funding program designed
4 to address inadequate water or wastewater facilities in colonias or
5 to residential lots located in a county described by Section
6 232.022(a)(1);

7 (2) is an existing dwelling identified as an eligible
8 recipient for funding by the funding agency providing adequate
9 water and wastewater facilities or improvements;

10 (3) when connected, will comply with the minimum state
11 standards for both water and sewer facilities and as prescribed by
12 the model subdivision rules adopted under Section 16.343, Water
13 Code; and

14 (4) is located in a project for which the political
15 subdivisions with jurisdiction over the project or the approval of
16 plats within the project area have approved the improvement project
17 by order, resolution, or interlocal agreement under Chapter 791,
18 Government Code.

19 (k) A utility may not serve any subdivided land with water
20 utility connection or service under Subsection (j) unless the
21 entity receives a determination that adequate sewer services have
22 been installed to service the lot or dwelling from the municipal
23 authority responsible for approving plats, an entity described by
24 Subsection (b), or the authorized agent responsible for the
25 licensing or permitting of on-site sewage facilities pursuant to
26 Chapter 366, Health and Safety Code.

27 SECTION 3. Chapter 231, Local Government Code, is amended

by adding Subchapter L to read as follows:

SUBCHAPTER L. ZONING AROUND FALCON LAKE

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated area of Zapata County located within 25,000 feet of:

(1) the project boundary line for Falcon Lake; and

(2) the Rio Grande.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the area subject to this subchapter. The commission is composed of:

(1) four residents of Zapata County, with one resident

1 from each of the county commissioners precincts, appointed by that
2 precinct's commissioner; and

3 (2) a person, who shall serve as the commission's
4 presiding officer, appointed by the county judge of Zapata County.

5 (b) Except as provided by Subsection (c), the members of the
6 commission shall be appointed for two-year terms that expire
7 February 1 of each odd-numbered year.

8 (c) The terms of the initial members of the commission
9 expire on February 1 of the first February in an odd-numbered year
10 following their appointment.

11 (d) The Commissioners Court of Zapata County may employ
12 staff for the commission to use in performing the commission's
13 functions.

14 Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) At
15 the request of the Commissioners Court of Zapata County the
16 commission shall, or on the lake planning commission's own
17 initiative the commission may, conduct studies of the area subject
18 to this subchapter and prepare reports to advise the commissioners
19 court about matters affecting that area, including any need for
20 zoning regulations in that area.

21 (b) Before the commission may prepare a report, the
22 commission must hold a public hearing in which members of the public
23 may offer testimony regarding any subject to be included in the
24 commission's report. The commission shall provide notice of the
25 hearing as required by the commissioners court.

26 Sec. 231.255. ZONING REGULATIONS. After receiving a report
27 from the lake planning commission under Section 231.254, the

Commissioners Court of Zapata County may adopt zoning regulations for the area subject to this subchapter and in accordance with the report that regulate:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

SECTION 4. Section 232.021, "Local Government Code, is amended by amending Subdivision (2) and adding Subdivisions (2-a), (2-b), and (6-a) to read as follows:

(2) "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or developer or a group of subdividers or developers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:

(A) contiguous or part of the same area of land;

or

(B) known, designated, or advertised as a common unit or by a common name.

(2-a) "Develop" means a structural improvement or man-made change to a lot intended for residential use undertaken to

1 improve, enhance, or otherwise make suitable real property for
2 purposes of sale, resale, or lease.

3 (2-b) "Developer" means a person who owns any interest
4 in real property and directly or indirectly develops real property
5 in the ordinary course of business or as part of a common
6 promotional plan.

7 (6-a) "Lot of record" means:

8 (A) a lot, the boundaries of which were
9 established by a plat recorded in the office of the county clerk
10 before September 1, 1989, that has not been subdivided after
11 September 1, 1989; or

12 (B) a lot, the boundaries of which were
13 established by a metes and bounds description in a deed of
14 conveyance, a contract of sale, or other executory contract to
15 convey real property that has been legally executed and recorded in
16 the office of the county clerk before September 1, 1989, that has
17 not been subdivided after September 1, 1989.

18 SECTION 5. Section 232.024(b), Local Government Code, is
19 amended to read as follows:

20 (b) If any part of a plat applies to land intended for
21 residential housing and any part of that land lies in a floodplain,
22 the commissioners court shall not approve the plat unless:

23 (1) the subdivision is developed in compliance with
24 the minimum requirements of the National Flood Insurance Program
25 and local regulations or orders adopted under Section 16.315, Water
26 Code; and

27 (2) the plat evidences a restrictive covenant

1 ~~prohibiting [as required by this subsection. The restrictive~~
 2 ~~covenant shall prohibit]~~ the construction of residential housing in
 3 any area of the subdivision that is in a floodplain unless the
 4 housing is developed in compliance with the minimum requirements of
 5 ~~[qualifies for insurance under]~~ the National Flood Insurance
 6 Program and local regulations or orders adopted under Section
 7 16.315, Water Code [Act of 1968 (42 U.S.C. Sections 4001 through
 8 4127)].

9 SECTION 6. Section 232.028(b), Local Government Code, is
 10 amended to read as follows:

11 (b) On the commissioners court's own motion or on the
 12 written request of a subdivider, an owner or resident of a lot in a
 13 subdivision, or an entity that provides a utility service, the
 14 commissioners court shall make the following determinations
 15 regarding the land in which the entity or commissioners court is
 16 interested that is located within the jurisdiction of the county:

17 (1) whether a plat has been prepared and whether it has
 18 been reviewed and approved by the commissioners court;

19 (2) whether water service facilities have been
 20 constructed or installed to service the lot or subdivision under
 21 Section 232.023 and are fully operable;

22 (3) whether sewer service facilities have been
 23 constructed or installed to service the lot or subdivision under
 24 Section 232.023 and are fully operable, or if septic systems are
 25 used, whether the lot is served by a permitted on-site sewage
 26 facility or lots in the subdivision can be adequately and legally
 27 served by septic systems under Section 232.023; and

1 (4) whether electrical and gas facilities, if
2 available, have been constructed or installed to service the lot or
3 subdivision under Section 232.023.

4 SECTION 7. Section 232.029, Local Government Code, is
5 amended by amending Subsections (b), (c), (d), (e), and (i) and
6 adding Subsections (k) and (l) to read as follows:

7 (b) Except as provided by Subsection (c) or Section
8 232.037(c), a utility may not serve or connect any subdivided land
9 with electricity or gas unless the entity receives a determination
10 from the county commissioners court under Sections 232.028(b)(2)
11 and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer
12 services have been installed to service the lot or subdivision.

13 (c) An electric, gas, water, or sewer service utility may
14 serve or connect subdivided land with water, sewer, electricity,
15 gas, or other utility service regardless of whether the utility
16 receives a certificate issued by the commissioners court under
17 Section 232.028(a) or receives a determination from the
18 commissioners court under Section 232.028(b) if the utility is
19 provided with a certificate issued by the commissioners court that
20 states that:

21 (1) the subdivided land:

22 (A) was sold or conveyed by a subdivider or
23 developer [~~to the person requesting service~~] by any means of
24 conveyance, including a contract for deed or executory contract:

25 (i) before September 1, 1995; or

26 (ii) before September 1, 1999, if the
27 subdivided land on August 31, 1999, was located in the

extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A); ~~[is located in a subdivision in which the utility has previously provided service; and]~~

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun[+

~~[(i) on or before May 1, 1997, or~~

~~[(ii)] on or before May 1, 2003; and~~

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling~~[, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42]; or~~

(3) ~~[(2)]~~ the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land

described by Subsection (c)(1), (2), or (3) only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the utility a certificate described by Subsection (c) ~~[(c)(1)]~~.

(e) A person requesting service may obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing ~~[either]~~:

(1) ~~[documentation containing]~~
~~[(A)]~~ a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);

(2) ~~[to the person requesting service]~~
~~[(i) before September 1, 1995, or~~
~~[(ii) before September 1, 1999, if the~~
~~subdivided land on August 31, 1999, was located in the~~
~~extraterritorial jurisdiction of a municipality as determined by~~
~~Chapter 42, and~~

~~[(B)]~~ a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun~~+~~

~~[(i) on or before May 1, 1997, or~~
~~[(ii)]~~ on or before May 1, 2003, and the

1 request for utility connection or service is to connect or serve a
2 residence described by Subsection (c)(1)(C);

3 (3) [~~if the subdivided land on August 31, 1999, was~~
4 ~~located in the extraterritorial jurisdiction of a municipality as~~
5 ~~determined by Chapter 42, or~~

6 [~~(2)~~] a notarized affidavit by the person requesting
7 service that states that the subdivided land has not been further
8 subdivided after[+]

9 [~~(A)~~ the property was sold or conveyed to that
10 person+]

11 [~~(i)~~ before] September 1, 1995, [+] or
12 [~~(ii)~~ before] September 1, 1999, as
13 applicable under Subsection (c); and

14 (4) evidence that adequate sewer service or facilities
15 have been installed and are fully operable to service the lot or
16 dwelling from an entity described by Section 232.021(14) or the
17 authorized agent responsible for the licensing or permitting of
18 on-site sewage facilities under Chapter 366, Health and Safety Code
19 [~~if the subdivided land on August 31, 1999, was located in the~~
20 ~~extraterritorial jurisdiction of a municipality as determined by~~
21 ~~Chapter 42, and~~

22 [~~(B)~~ construction of a residence on the land,
23 evidenced by at least the existence of a completed foundation, was
24 begun+]

25 [~~(i)~~ on or before May 1, 1997, or

26 [~~(ii)~~ on or before May 1, 2003, if the
27 subdivided land on August 31, 1999, was located in the

~~extraterritorial jurisdiction of a municipality as determined by Chapter 42].~~

(i) The prohibition established by this section shall not prohibit a water, sewer, [an] electric, or gas utility from providing water, sewer, electric, or gas utility connection or service to a lot [being] sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider or developer prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality that has adequate sewer services installed that are fully operable to service the lot [which is located within a subdivision where the utility has previously established service] and was subdivided by a plat approved prior to September 1, 1989.

(k) Except as provided by Subsection (l), this section does not prohibit a water or sewer utility from providing water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by

1 the model subdivision rules adopted under Section 16.343, Water
2 Code; and

3 (4) is located in a project for which the political
4 subdivisions with jurisdiction over the project or the approval of
5 plats within the project area have approved the improvement project
6 by order, resolution, or interlocal agreement under Chapter 791,
7 Government Code, if applicable.

8 (1) A utility may not serve any subdivided land with water
9 utility connection or service under Subsection (k) unless the
10 entity receives a determination from the county commissioners court
11 under Section 232.028(b)(3) that adequate sewer services have been
12 installed to service the lot or dwelling.

13 SECTION 8. Sections 232.031(a) and (b), Local Government
14 Code, are amended to read as follows:

15 (a) Except as provided by Subsection (d), a subdivider or
16 developer may not sell or lease land in a subdivision first platted
17 or replatted after July 1, 1995, unless the subdivision plat is
18 approved by the commissioners court in accordance with Section
19 232.024.

20 (b) Not later than the 30th day after the date a lot is sold,
21 a subdivider or developer shall record with the county clerk all
22 sales contracts, including the attached disclosure statement
23 required by Section 232.033, leases, and any other documents that
24 convey an interest in the subdivided land.

25 SECTION 9. Sections 232.035(a) and (b), Local Government
26 Code, are amended to read as follows:

27 (a) A subdivider or developer or an agent of a subdivider or

1 developer may not cause, suffer, allow, or permit a lot to be sold
2 in a subdivision if the subdivision has not been platted as required
3 by this subchapter.

4 (b) Notwithstanding any other remedy at law or equity, a
5 subdivider or developer or an agent of a subdivider or developer may
6 not cause, suffer, allow, or permit any part of a subdivision over
7 which the subdivider or developer or an agent of the subdivider or
8 developer has control, or a right of ingress and egress, to become a
9 public health nuisance as defined by Section 341.011, Health and
10 Safety Code.

11 SECTION 10. Section 232.036(a), Local Government Code, is
12 amended to read as follows:

13 (a) A subdivider or developer commits an offense if the
14 subdivider or developer knowingly fails to file a plat or replat
15 required by this subchapter. An offense under this subsection is a
16 Class A misdemeanor.

17 SECTION 11. Section 232.038(a), Local Government Code, is
18 amended to read as follows:

19 (a) Except as provided by Subsection (b), a person who has
20 purchased or is purchasing a lot after July 1, 1995, in a
21 subdivision for residential purposes that does not have water and
22 sewer services as required by this subchapter and is located in an
23 economically distressed area, as defined by Section 17.921, Water
24 Code, from a subdivider or developer, may bring suit in the district
25 court in which the property is located or in a district court in
26 Travis County to:

27 (1) declare the sale of the property void and require

the subdivider or developer to return the purchase price of the property; and

(2) recover from the subdivider or developer:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees.

SECTION 12. Sections 232.040(a), (b), and (c), Local Government Code, are amended to read as follows:

(a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or developer or by the forces of nature, including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.041.

(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is platted or replatted as required by this subchapter. A subdivider or developer or agent of a subdivider or developer may not transfer a lot through an executory contract or other similar conveyance to evade the requirements of this subchapter. The prohibition in this subsection includes the sale of a lot:

(1) by a subdivider or developer who regains possession of a lot previously exempt under Subsection (c) through

1 the exercise of a remedy described in Section 5.061, Property Code;
2 or

3 (2) for which it is shown at a proceeding brought in
4 the district court in which the property is located that the sale of
5 a lot otherwise exempt under Subsection (c) was made for the purpose
6 of evading the requirements of this subchapter.

7 (c) Subsection (b) does not apply to ~~[if]~~ a seller other
8 than a subdivider, developer, or agent of a subdivider or developer
9 ~~[resides on the lot]~~.

10 SECTION 13. Subchapter B, Chapter 412, Local Government
11 Code, is amended by adding Section 412.017 to read as follows:

12 Sec. 412.017. WATER SUPPLY AND SEWAGE SYSTEM FOR CERTAIN
13 BORDER COUNTIES. (a) This section applies only to a county:

14 (1) that is located adjacent to an international
15 border; and

16 (2) in which a military installation is located.

17 (b) The commissioners court of a county to which this
18 section applies may acquire, construct, or operate a water supply
19 system or sewage system to serve:

20 (1) unincorporated areas of the county; and

21 (2) areas initially included in a municipality on or
22 after September 1, 2007, in which the municipality does not provide
23 water or sewer services.

24 (c) The county may enter a management or lease agreement
25 with another public or private entity for the operation of a county
26 water or sewage system acquired or constructed under this section.

27 (d) The county may apply for and receive grants or other

1 assistance from a state or federal governmental entity to implement
2 this section.

3 (e) The county may own, operate, or maintain a water or
4 sewer utility in the same manner as a municipality under Chapter
5 402.

6 (f) A county may not construct, operate, or maintain a water
7 supply system or sewage system in an area previously served by the
8 county's water supply or sewage system after the area is annexed by
9 a municipality and the municipality begins providing to the area
10 water or sewer services previously provided by the county.

11 SECTION 14. Section 16.344, Water Code, is amended by
12 adding Subsections (d), (e), (f), (g), (h), and (i) to read as
13 follows:

14 (d) Notwithstanding Section 16.343(g) or Section 16.350(a),
15 a political subdivision may temporarily continue to receive funds
16 under Subchapter K, Chapter 17, if the political subdivision
17 submits a request for temporary continuation of funding and the
18 board determines that:

19 (1) the political subdivision's initial funding
20 application and any amendments for a designated area were reviewed
21 and approved by the board before January 1, 2007;

22 (2) withholding funds would result in an undue
23 hardship for occupants of the property to be served by unreasonably
24 delaying the provision of adequate water or wastewater services;

25 (3) withholding funds would result in inefficient use
26 of local, state, or federal funds under the program;

27 (4) the political subdivision has committed to take

1 the necessary and appropriate actions to correct any deficiencies
2 in adoption or enforcement of the model rules within the time
3 designated by the board, but not later than the 90th day after the
4 date the board makes the determinations under this subsection;

5 (5) the political subdivision has sufficient
6 safeguards in place to prevent the proliferation of colonias; and

7 (6) during the 30 days after the date the board
8 receives a request under this subsection, the board, after
9 consulting with the attorney general, secretary of state, and
10 commission, has not received an objection from any of those
11 entities to the request for temporary continuation of funding.

12 (e) In applying Subsection (d) to applications for
13 increased financial assistance, the board shall only consider areas
14 that were included in the initial application, except that the
15 board may reconsider the eligibility of areas that were the subject
16 of a facility plan in the initial application and that may be
17 determined to be eligible based on criteria in effect September 1,
18 2005.

19 (f) The political subdivision shall take necessary and
20 appropriate actions to correct any deficiencies in its adoption and
21 enforcement of the model rules within the time period required by
22 the board, not to exceed the 90-day period described by Subsection
23 (d)(4), and provide evidence of compliance to the board. The board
24 shall discontinue funding unless the board makes a determination
25 based on the evidence provided that the political subdivision has
26 demonstrated sufficient compliance to continue funding.

27 (g) Except as provided by Subsections (d)-(f), if the board

1 determines that a county or city that is required to adopt and
2 enforce the model rules is not enforcing the model rules, the board
3 shall discontinue funding for all projects within the county or
4 city that are funded under Subchapter K, Chapter 17.

5 (h) The board may not accept or grant applications for
6 temporary funding under Subsection (d) after June 1, 2009.

7 (i) Subsections (d), (e), (f), (g), and (h) and this
8 subsection expire September 1, 2009.

9 SECTION 15. Section 232.029(f), Local Government Code, is
10 repealed.

11 SECTION 16. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

Atty. Gen.
Secretary of the Senate

By: Zaffini

H.B. No. 3068

Substitute the following for H.B. No. 3068:

By: Lucio

C.S.H.B. No. 3068

A BILL TO BE ENTITLED

AN ACT

relating to the authority and responsibilities of certain political subdivisions in relation to development.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 81.033(b), Local Government Code, is amended to read as follows:

(b) If approved at an election held in the county for that purpose, the commissioners court has, in addition to the powers given to it under this code or other law, all the powers of the governing body of a Type A general-law municipality, including the powers contained in Subtitle A, Title 7, except that:

(1) the commissioners court may not regulate an activity outside the county;

(2) the commissioners court may not regulate a tract of land that is appraised as agricultural or open-space land by the appraisal district;

(3) the commissioners court may not exercise the powers of a municipality under Chapter 211 (~~or 213~~); and

(4) if this code or other law provides for a procedure by which a county exercises a power, the commissioners court must use that procedure.

SECTION 2. Section 212.012, Local Government Code, is amended by amending Subsections (a), (c), (d), (e), (f), (h), and (i) and adding Subsections (j) and (k) to read as follows:

1 (a) Except as provided by Subsection (c), (d), or (j)
2 ~~[Subsection (e)]~~, an entity described by Subsection (b) may not
3 serve or connect any land with water, sewer, electricity, gas, or
4 other utility service unless the entity has been presented with or
5 otherwise holds a certificate applicable to the land issued under
6 Section 212.0115.

7 (c) An entity described by Subsection (b) may serve or
8 connect land with water, sewer, electricity, gas, or other utility
9 service regardless of whether the entity is presented with or
10 otherwise holds a certificate applicable to the land issued under
11 Section 212.0115 if:

12 (1) the land is covered by a development plat approved
13 under Subchapter B or under an ordinance or rule relating to the
14 development plat;

15 (2) the land was first served or connected with
16 service by an entity described by Subsection (b)(1), (b)(2), or
17 (b)(3) before September 1, 1987; or

18 (3) the land was first served or connected with
19 service by an entity described by Subsection (b)(4), (b)(5), or
20 (b)(6) before September 1, 1989~~[, or~~

21 ~~[(4) the municipal authority responsible for~~
22 ~~approving plats issues a certificate stating that:~~

23 ~~[(A) the land:~~

24 ~~[(i) was sold or conveyed to the person~~
25 ~~requesting service by any means of conveyance, including a contract~~
26 ~~for deed or executory contract, before:~~

27 ~~[(a) September 1, 1995, in a county~~

1 ~~defined under Section 232.022(a)(1), or~~

2 ~~[(b) September 1, 2005, in a county~~
3 ~~defined under Section 232.022(a)(2),~~

4 ~~[(ii) is located in a subdivision in which~~
5 ~~the entity has previously provided service,~~

6 ~~[(iii) is located outside the limits of the~~
7 ~~municipality,~~

8 ~~[(iv) is located in a county to which~~
9 ~~Subchapter B, Chapter 232, applies, and~~

10 ~~[(v) is the site of construction of a~~
11 ~~residence, evidenced by at least the existence of a completed~~
12 ~~foundation, that was begun on or before.~~

13 ~~[(a) May 1, 1997, in a county defined~~
14 ~~under Section 232.022(a)(1), or~~

15 ~~[(b) September 1, 2005, in a county~~
16 ~~defined under Section 232.022(a)(2), or~~

17 ~~[(B) the land was not subdivided after September~~
18 ~~1, 1995, in a county defined under Section 232.022(a)(1), or~~
19 ~~September 1, 2005, in a county defined under Section 232.022(a)(2),~~
20 ~~and.~~

21 ~~[(i) water service is available within 750~~
22 ~~feet of the subdivided land, or~~

23 ~~[(ii) water service is available more than~~
24 ~~750 feet from the subdivided land and the extension of water service~~
25 ~~to the land may be feasible, subject to a final determination by the~~
26 ~~water service provider].~~

27 (d) In a county to which Subchapter B, Chapter 232, applies,

1 an entity described by Subsection (b) may serve or connect land with
2 water, sewer, electricity, gas, or other utility service that is
3 located in the extraterritorial jurisdiction of a municipality
4 regardless of whether the entity is presented with or otherwise
5 holds a certificate applicable to the land issued under Section
6 212.0115, if the municipal authority responsible for approving
7 plats issues a certificate stating that:

8 (1) the subdivided land:

9 (A) was sold or conveyed by a subdivider or
10 developer by any means of conveyance, including a contract for deed
11 or executory contract, before:

12 (i) September 1, 1995, in a county defined
13 under Section 232.022(a)(1);

14 (ii) September 1, 1999, in a county defined
15 under Section 232.022(a)(1) if, on August 31, 1999, the subdivided
16 land was located in the extraterritorial jurisdiction of a
17 municipality as determined by Chapter 42; or

18 (iii) September 1, 2005, in a county
19 defined under Section 232.022(a)(2);

20 (B) has not been subdivided after September 1,
21 1995, September 1, 1999, or September 1, 2005, as applicable under
22 Paragraph (A);

23 (C) is the site of construction of a residence,
24 evidenced by at least the existence of a completed foundation, that
25 was begun on or before:

26 (i) May 1, 2003, in a county defined under
27 Section 232.022(a)(1); or

1 (ii) September 1, 2005, in a county defined
2 under Section 232.022(a)(2); and

3 (D) has had adequate sewer services installed to
4 service the lot or dwelling;

5 (2) the subdivided land is a lot of record as defined
6 by Section 232.021(6-a) that is located in a county defined by
7 Section 232.022(a)(1) and has adequate sewer services installed
8 that are fully operable to service the lot or dwelling; or

9 (3) the land was not subdivided after September 1,
10 1995, in a county defined under Section 232.022(a)(1), or September
11 1, 2005, in a county defined under Section 232.022(a)(2), and:

12 (A) water service is available within 750 feet of
13 the subdivided land; or

14 (B) water service is available more than 750 feet
15 from the subdivided land and the extension of water service to the
16 land may be feasible, subject to a final determination by the water
17 service provider.

18 (e) An entity described by Subsection (b) may provide
19 utility service to land described by Subsection (d)(1), (2), or (3)
20 [Subsection (c)(4)(A)] only if the person requesting service:

21 (1) is not the land's subdivider or developer or the
22 subdivider's or developer's agent; and

23 (2) provides to the entity a certificate described by
24 Subsection (d) [Subsection (c)(4)(A)].

25 (f) ~~[(e)]~~ A person requesting service may obtain a
26 certificate under Subsection (d)(1), (2), or (3) ~~[Subsection~~
27 ~~(c)(4)(A)]~~ only if the person is the owner or purchaser of the

1 subdivided land and provides to the municipal authority responsible
2 for approving plats documentation containing ~~[either]~~:

3 (1) a copy of the means of conveyance or other
4 documents that show that the land was sold or conveyed by a
5 subdivider or developer ~~[to the person requesting service]~~ before
6 September 1, 1995, before September 1, 1999, or before September 1,
7 2005, as applicable under Subsection (d) ~~[, and a notarized~~
8 ~~affidavit by that person that states that construction of a~~
9 ~~residence on the land, evidenced by at least the existence of a~~
10 ~~completed foundation, was begun on or before May 1, 1997, or on or~~
11 ~~before September 1, 2005, as applicable]~~; ~~[or]~~

12 (2) for a certificate issued under Subsection (d)(1),
13 a notarized affidavit by the person requesting service that states
14 that ~~[the property was sold or conveyed to that person before~~
15 ~~September 1, 1995, or before September 1, 2005, as applicable, and~~
16 ~~that]~~ construction of a residence on the land, evidenced by at least
17 the existence of a completed foundation, was begun on or before May
18 1, 2003, in a county defined by Section 232.022(a)(1) or September
19 1, 2005, in a county defined by Section 232.022(a)(2), and the
20 request for utility connection or service is to connect or serve a
21 residence described by Subsection (d)(1)(C);

22 (3) a notarized affidavit by the person requesting
23 service that states that the subdivided land has not been further
24 subdivided after September 1, 1995, September 1, 1999, or September
25 1, 2005, as applicable under Subsection (d); and

26 (4) evidence that adequate sewer service or facilities
27 have been installed and are fully operable to service the lot or

1 dwelling from an entity described by Subsection (b) or the
2 authorized agent responsible for the licensing or permitting of
3 on-site sewage facilities under Chapter 366, Health and Safety
4 Code. [May 1, 1997, or on or before September 1, 2005, as
5 applicable.

6 ~~[(f) A person requesting service may obtain a certificate~~
7 ~~under Subsection (c)(4)(B) only if the person provides to the~~
8 ~~municipal authority responsible for approving plats an affidavit~~
9 ~~that states that the property was not sold or conveyed to that~~
10 ~~person from a subdivider or the subdivider's agent after September~~
11 ~~1, 1995, or after September 1, 2005, as applicable.]~~

12 (h) This section may not be construed to abrogate any civil
13 or criminal proceeding or prosecution or to waive any penalty
14 against a subdivider or developer for a violation of a state or
15 local law, regardless of the date on which the violation occurred.

16 (i) In this section:

17 (1) "Developer" has the meaning assigned by Section
18 232.021.

19 (2) "Foundation" means the lowest division of a
20 residence, usually consisting of a masonry slab or a pier and beam
21 structure, that is partly or wholly below the surface of the ground
22 and on which the residential structure rests.

23 (3) ~~[(2)]~~ "Subdivider" has the meaning assigned by
24 Section 232.021.

25 (j) Except as provided by Subsection (k), this section does
26 not prohibit a water or sewer utility from providing in a county
27 defined by Section 232.022(a)(1) water or sewer utility connection

1 or service to a residential dwelling that:

2 (1) is provided water or wastewater facilities under
3 or in conjunction with a federal or state funding program designed
4 to address inadequate water or wastewater facilities in colonias or
5 to residential lots located in a county described by Section
6 232.022(a)(1);

7 (2) is an existing dwelling identified as an eligible
8 recipient for funding by the funding agency providing adequate
9 water and wastewater facilities or improvements;

10 (3) when connected, will comply with the minimum state
11 standards for both water and sewer facilities and as prescribed by
12 the model subdivision rules adopted under Section 16.343, Water
13 Code; and

14 (4) is located in a project for which the political
15 subdivisions with jurisdiction over the project or the approval of
16 plats within the project area have approved the improvement project
17 by order, resolution, or interlocal agreement under Chapter 791,
18 Government Code.

19 (k) A utility may not serve any subdivided land with water
20 utility connection or service under Subsection (j) unless the
21 entity receives a determination that adequate sewer services have
22 been installed to service the lot or dwelling from the municipal
23 authority responsible for approving plats, an entity described by
24 Subsection (b), or the authorized agent responsible for the
25 licensing or permitting of on-site sewage facilities pursuant to
26 Chapter 366, Health and Safety Code.

27 SECTION 3. Chapter 231, Local Government Code, is amended

1 by adding Subchapter L to read as follows:

2 SUBCHAPTER L. ZONING AROUND FALCON LAKE

3 Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The
4 legislature finds that:

5 (1) the area that surrounds Falcon Lake in Zapata
6 County is frequented for recreational purposes by residents from
7 every part of the state;

8 (2) orderly development and use of the area is of
9 concern to the entire state; and

10 (3) buildings in the area that are frequented for
11 resort or recreational purposes tend to become congested and to be
12 used in ways that interfere with the proper use of the area as a
13 place of recreation to the detriment of the public health, safety,
14 morals, and general welfare.

15 (b) The powers granted under this subchapter are for the
16 purpose of promoting the public health, safety, peace, morals, and
17 general welfare and encouraging the recreational use of county
18 land.

19 Sec. 231.252. AREAS SUBJECT TO REGULATION. This
20 subchapter applies only to the unincorporated area of Zapata County
21 located within 25,000 feet of:

22 (1) the project boundary line for Falcon Lake; and

23 (2) the Rio Grande.

24 Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake
25 planning commission is established for the area subject to this
26 subchapter. The commission is composed of:

27 (1) four residents of Zapata County, with one resident

1 from each of the county commissioners precincts, appointed by that
2 precinct's commissioner; and

3 (2) a person, who shall serve as the commission's
4 presiding officer, appointed by the county judge of Zapata County.

5 (b) Except as provided by Subsection (c), the members of the
6 commission shall be appointed for two-year terms that expire
7 February 1 of each odd-numbered year.

8 (c) The terms of the initial members of the commission
9 expire on February 1 of the first February in an odd-numbered year
10 following their appointment.

11 (d) The Commissioners Court of Zapata County may employ
12 staff for the commission to use in performing the commission's
13 functions.

14 Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) At
15 the request of the Commissioners Court of Zapata County the
16 commission shall, or on the lake planning commission's own
17 initiative the commission may, conduct studies of the area subject
18 to this subchapter and prepare reports to advise the commissioners
19 court about matters affecting that area, including any need for
20 zoning regulations in that area.

21 (b) Before the commission may prepare a report, the
22 commission must hold a public hearing in which members of the public
23 may offer testimony regarding any subject to be included in the
24 commission's report. The commission shall provide notice of the
25 hearing as required by the commissioners court.

26 Sec. 231.255. ZONING REGULATIONS. After receiving a report
27 from the lake planning commission under Section 231.254, the

1 Commissioners Court of Zapata County may adopt zoning regulations
2 for the area subject to this subchapter and in accordance with the
3 report that regulate:

4 (1) the height, number of stories, and size of
5 buildings and other structures;

6 (2) the percentage of a lot that may be occupied;

7 (3) the size of yards, courts, and other open spaces;

8 (4) population density;

9 (5) the location and use of buildings, other
10 structures, and land for business, industrial, residential, or
11 other purposes; and

12 (6) the placement of water and sewage facilities,
13 parks, and other public requirements.

14 SECTION 4. Section 232.021, Local Government Code, is
15 amended by amending Subdivision (2) and adding Subdivisions (2-a),
16 (2-b), and (6-a) to read as follows:

17 (2) "Common promotional plan" means any plan or scheme
18 of operation undertaken by a single subdivider or developer or a
19 group of subdividers or developers acting in concert, either
20 personally or through an agent, to offer for sale or lease lots when
21 the land is:

22 (A) contiguous or part of the same area of land;

23 or

24 (B) known, designated, or advertised as a common
25 unit or by a common name.

26 (2-a) "Develop" means a structural improvement or
27 man-made change to a lot intended for residential use undertaken to

1. improve, enhance, or otherwise make suitable real property for
2 purposes of sale, resale, or lease.

3 (2-b) "Developer" means a person who owns any interest
4 in real property and directly or indirectly develops real property
5 in the ordinary course of business or as part of a common
6 promotional plan.

7 (6-a) "Lot of record" means:

8 (A) a lot, the boundaries of which were
9 established by a plat recorded in the office of the county clerk
10 before September 1, 1989, that has not been subdivided after
11 September 1, 1989; or

12 (B) a lot, the boundaries of which were
13 established by a metes and bounds description in a deed of
14 conveyance, a contract of sale, or other executory contract to
15 convey real property that has been legally executed and recorded in
16 the office of the county clerk before September 1, 1989, that has
17 not been subdivided after September 1, 1989.

18 SECTION 5. Section 232.024(b), Local Government Code, is
19 amended to read as follows:

20 (b) If any part of a plat applies to land intended for
21 residential housing and any part of that land lies in a floodplain,
22 the commissioners court shall not approve the plat unless:

23 (1) the subdivision is developed in compliance with
24 the minimum requirements of the National Flood Insurance Program
25 and local regulations or orders adopted under Section 16.315, Water
26 Code; and

27 (2) the plat evidences a restrictive covenant

1 prohibiting ~~[as required by this subsection. The restrictive~~
2 ~~covenant shall prohibit]~~ the construction of residential housing in
3 any area of the subdivision that is in a floodplain unless the
4 housing is developed in compliance with the minimum requirements of
5 ~~[qualifies for insurance under]~~ the National Flood Insurance
6 Program and local regulations or orders adopted under Section
7 16.315, Water Code ~~[Act of 1968 (42 U.S.C. Sections 4001 through~~
8 ~~4127)]~~.

9 SECTION 6. Section 232.028(b), Local Government Code, is
10 amended to read as follows:

11 (b) On the commissioners court's own motion or on the
12 written request of a subdivider, an owner or resident of a lot in a
13 subdivision, or an entity that provides a utility service, the
14 commissioners court shall make the following determinations
15 regarding the land in which the entity or commissioners court is
16 interested that is located within the jurisdiction of the county:

17 (1) whether a plat has been prepared and whether it has
18 been reviewed and approved by the commissioners court;

19 (2) whether water service facilities have been
20 constructed or installed to service the lot or subdivision under
21 Section 232.023 and are fully operable;

22 (3) whether sewer service facilities have been
23 constructed or installed to service the lot or subdivision under
24 Section 232.023 and are fully operable, or if septic systems are
25 used, whether the lot is served by a permitted on-site sewage
26 facility or lots in the subdivision can be adequately and legally
27 served by septic systems under Section 232.023; and

1 (4) whether electrical and gas facilities, if
2 available, have been constructed or installed to service the lot or
3 subdivision under Section 232.023.

4 SECTION 7. Section 232.029, Local Government Code, is
5 amended by amending Subsections (b), (c), (d), (e), and (i) and
6 adding Subsections (k) and (l) to read as follows:

7 (b) Except as provided by Subsection (c) or Section
8 232.037(c), a utility may not serve or connect any subdivided land
9 with electricity or gas unless the entity receives a determination
10 from the county commissioners court under Sections 232.028(b)(2)
11 and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer
12 services have been installed to service the lot or subdivision.

13 (c) An electric, gas, water, or sewer service utility may
14 serve or connect subdivided land with water, sewer, electricity,
15 gas, or other utility service regardless of whether the utility
16 receives a certificate issued by the commissioners court under
17 Section 232.028(a) or receives a determination from the
18 commissioners court under Section 232.028(b) if the utility is
19 provided with a certificate issued by the commissioners court that
20 states that:

21 (1) the subdivided land:

22 (A) was sold or conveyed by a subdivider or
23 developer [~~to the person requesting service~~] by any means of
24 conveyance, including a contract for deed or executory contract:

25 (i) before September 1, 1995; or

26 (ii) before September 1, 1999, if the
27 subdivided land on August 31, 1999, was located in the

1 extraterritorial jurisdiction of a municipality as determined by
2 Chapter 42;

3 (B) has not been subdivided after September 1,
4 1995, or September 1, 1999, as applicable under Paragraph (A); ~~[is~~
5 ~~located in a subdivision in which the utility has previously~~
6 ~~provided service; and]~~

7 (C) is the site of construction of a residence,
8 evidenced by at least the existence of a completed foundation, that
9 was begun[+

10 ~~[(i) on or before May 1, 1997; or~~

11 ~~[(ii)]~~ on or before May 1, 2003; and

12 (D) has had adequate sewer services installed to
13 service the lot or dwelling;

14 (2) the subdivided land is a lot of record and has
15 adequate sewer services installed that are fully operable to
16 service the lot or dwelling~~[, if the subdivided land on August 31,~~
17 ~~1999, was located in the extraterritorial jurisdiction of a~~
18 ~~municipality as determined by Chapter 42]; or~~

19 (3) ~~[(2)]~~ the land was not subdivided after September
20 1, 1995, and:

21 (A) water service is available within 750 feet of
22 the subdivided land; or

23 (B) water service is available more than 750 feet
24 from the subdivided land and the extension of water service to the
25 land may be feasible, subject to a final determination by the water
26 service provider.

27 (d) A utility may provide utility service to subdivided land

1 described by Subsection (c)(1), (2), or (3) only if the person
2 requesting service:

3 (1) is not the land's subdivider or developer or the
4 subdivider's or developer's agent; and

5 (2) provides to the utility a certificate described by
6 Subsection (c) ~~[(e)(1)]~~.

7 (e) A person requesting service may obtain a certificate
8 under Subsection (c)(1), (2), or (3) only if the person is the owner
9 or purchaser of the subdivided land and provides to the
10 commissioners court documentation containing ~~[either]~~:

11 (1) ~~[documentation containing:~~

12 ~~[(A)]~~ a copy of the means of conveyance or other
13 documents that show that the land was sold or conveyed by a
14 subdivider or developer before September 1, 1995, or before
15 September 1, 1999, as applicable under Subsection (c);

16 (2) ~~[to the person requesting service:~~

17 ~~[(i) before September 1, 1995, or~~

18 ~~[(ii) before September 1, 1999, if the~~
19 ~~subdivided land on August 31, 1999, was located in the~~
20 ~~extraterritorial jurisdiction of a municipality as determined by~~
21 ~~Chapter 42, and~~

22 ~~[(B)]~~ a notarized affidavit by that person
23 requesting service under Subsection (c)(1) that states that
24 construction of a residence on the land, evidenced by at least the
25 existence of a completed foundation, was begun~~+~~

26 ~~[(i) on or before May 1, 1997, or~~

27 ~~[(ii)]~~ on or before May 1, 2003, and the

1 request for utility connection or service is to connect or serve a
2 residence described by Subsection (c)(1)(C);

3 (3) [~~, if the subdivided land on August 31, 1999, was~~
4 ~~located in the extraterritorial jurisdiction of a municipality as~~
5 ~~determined by Chapter 42, or~~

6 [~~(2)~~] a notarized affidavit by the person requesting
7 service that states that the subdivided land has not been further
8 subdivided after[~~+~~

9 [~~(A) the property was sold or conveyed to that~~
10 ~~person~~+

11 [~~(i) before~~] September 1, 1995, [~~+~~] or
12 [~~(ii) before~~] September 1, 1999, as
13 applicable under Subsection (c); and

14 (4) evidence that adequate sewer service or facilities
15 have been installed and are fully operable to service the lot or
16 dwelling from an entity described by Section 232.021(14) or the
17 authorized agent responsible for the licensing or permitting of
18 on-site sewage facilities under Chapter 366, Health and Safety Code
19 ~~[if the subdivided land on August 31, 1999, was located in the~~
20 ~~extraterritorial jurisdiction of a municipality as determined by~~
21 ~~Chapter 42, and~~

22 [~~(B) construction of a residence on the land,~~
23 ~~evidenced by at least the existence of a completed foundation, was~~
24 ~~begun~~+

25 [~~(i) on or before May 1, 1997, or~~
26 [~~(ii) on or before May 1, 2003, if the~~
27 ~~subdivided land on August 31, 1999, was located in the~~

1 ~~extraterritorial jurisdiction of a municipality as determined by~~
2 ~~Chapter 42].~~

3 (i) The prohibition established by this section shall not
4 prohibit a water, sewer, [an] electric, or gas utility from
5 providing water, sewer, electric, or gas utility connection or
6 service to a lot [being] sold, conveyed, or purchased through a
7 contract for deed or executory contract or other device by a
8 subdivider or developer prior to July 1, 1995, or September 1, 1999,
9 if on August 31, 1999, the subdivided land was located in the
10 extraterritorial jurisdiction of a municipality that has adequate
11 sewer services installed that are fully operable to service the lot
12 [which is located within a subdivision where the utility has
13 previously established service] and was subdivided by a plat
14 approved prior to September 1, 1989.

15 (k) Except as provided by Subsection (l), this section does
16 not prohibit a water or sewer utility from providing water or sewer
17 utility connection or service to a residential dwelling that:

18 (1) is provided water or wastewater facilities under
19 or in conjunction with a federal or state funding program designed
20 to address inadequate water or wastewater facilities in colonias or
21 to residential lots located in a county described by Section
22 232.022(a)(1);

23 (2) is an existing dwelling identified as an eligible
24 recipient for funding by the funding agency providing adequate
25 water and wastewater facilities or improvements;

26 (3) when connected, will comply with the minimum state
27 standards for both water and sewer facilities and as prescribed by

1 the model subdivision rules adopted under Section 16.343, Water
2 Code; and

3 (4) is located in a project for which the political
4 subdivisions with jurisdiction over the project or the approval of
5 plats within the project area have approved the improvement project
6 by order, resolution, or interlocal agreement under Chapter 791,
7 Government Code, if applicable.

8 (1) A utility may not serve any subdivided land with water
9 utility connection or service under Subsection (k) unless the
10 entity receives a determination from the county commissioners court
11 under Section 232.028(b)(3) that adequate sewer services have been
12 installed to service the lot or dwelling.

13 SECTION 8. Sections 232.031(a) and (b), Local Government
14 Code, are amended to read as follows:

15 (a) Except as provided by Subsection (d), a subdivider or
16 developer may not sell or lease land in a subdivision first platted
17 or replatted after July 1, 1995, unless the subdivision plat is
18 approved by the commissioners court in accordance with Section
19 232.024.

20 (b) Not later than the 30th day after the date a lot is sold,
21 a subdivider or developer shall record with the county clerk all
22 sales contracts, including the attached disclosure statement
23 required by Section 232.033, leases, and any other documents that
24 convey an interest in the subdivided land.

25 SECTION 9. Sections 232.035(a) and (b), Local Government
26 Code, are amended to read as follows:

27 (a) A subdivider or developer or an agent of a subdivider or

1 developer may not cause, suffer, allow, or permit a lot to be sold
2 in a subdivision if the subdivision has not been platted as required
3 by this subchapter.

4 (b) Notwithstanding any other remedy at law or equity, a
5 subdivider or developer or an agent of a subdivider or developer may
6 not cause, suffer, allow, or permit any part of a subdivision over
7 which the subdivider or developer or an agent of the subdivider or
8 developer has control, or a right of ingress and egress, to become a
9 public health nuisance as defined by Section 341.011, Health and
10 Safety Code.

11 SECTION 10. Section 232.036(a), Local Government Code, is
12 amended to read as follows:

13 (a) A subdivider or developer commits an offense if the
14 subdivider or developer knowingly fails to file a plat or replat
15 required by this subchapter. An offense under this subsection is a
16 Class A misdemeanor.

17 SECTION 11. Section 232.038(a), Local Government Code, is
18 amended to read as follows:

19 (a) Except as provided by Subsection (b), a person who has
20 purchased or is purchasing a lot after July 1, 1995, in a
21 subdivision for residential purposes that does not have water and
22 sewer services as required by this subchapter and is located in an
23 economically distressed area, as defined by Section 17.921, Water
24 Code, from a subdivider or developer, may bring suit in the district
25 court in which the property is located or in a district court in
26 Travis County to:

27 (1) declare the sale of the property void and require

1 the subdivider or developer to return the purchase price of the
2 property; and

3 (2) recover from the subdivider or developer:

4 (A) the market value of any permanent
5 improvements the person placed on the property;

6 (B) actual expenses incurred as a direct result
7 of the failure to provide adequate water and sewer facilities;

8 (C) court costs; and

9 (D) reasonable attorney's fees.

10 SECTION 12. Sections 232.040(a), (b), and (c), Local
11 Government Code, are amended to read as follows:

12 (a) A subdivision plat must accurately reflect the
13 subdivision as it develops. If there is any change, either by the
14 intentional act of the subdivider or developer or by the forces of
15 nature, including changes in the size or dimension of lots or the
16 direction or condition of the roads, a plat must be revised in
17 accordance with Section 232.041.

18 (b) Except as provided by Subsection (c), a lot in a
19 subdivision may not be sold if the lot lacks water and sewer
20 services as required by this subchapter unless the lot is platted or
21 replatted as required by this subchapter. A subdivider or
22 developer or agent of a subdivider or developer may not transfer a
23 lot through an executory contract or other similar conveyance to
24 evade the requirements of this subchapter. The prohibition in this
25 subsection includes the sale of a lot:

26 (1) by a subdivider or developer who regains
27 possession of a lot previously exempt under Subsection (c) through

1 the exercise of a remedy described in Section 5.061, Property Code;
2 or

3 (2) for which it is shown at a proceeding brought in
4 the district court in which the property is located that the sale of
5 a lot otherwise exempt under Subsection (c) was made for the purpose
6 of evading the requirements of this subchapter.

7 (c) Subsection (b) does not apply to ~~if~~ a seller other
8 than a subdivider, developer, or agent of a subdivider or developer
9 ~~[resides on the lot]~~.

10 SECTION 13. Chapter 242, Local Government Code, is amended
11 by adding Subchapter B to read as follows:

12 SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND
13 MUNICIPALITIES

14 Sec. 242.051. APPLICABILITY. This subchapter applies only
15 to:

16 (1) a county that includes territory located within 50
17 miles of an international border; or

18 (2) a municipality located in that county if:

19 (A) the county does not exercise in the
20 municipality's extraterritorial jurisdiction the authority
21 described by this subchapter; and

22 (B) the county by resolution authorizes the
23 municipality to exercise in the municipality's extraterritorial
24 jurisdiction the authority described by this subchapter.

25 Sec. 242.052. REGULATORY AUTHORITY. (a) The
26 commissioners court of a county to which this subchapter applies
27 may, by order, regulate residential land development in the

1 unincorporated area of the county. The governing body of a
2 municipality to which this subchapter applies may, by ordinance,
3 regulate residential land development in the municipality's
4 extraterritorial jurisdiction. By this authority, the
5 commissioners court or governing body may prevent the proliferation
6 of colonias by:

7 (1) adopting regulations relating to:

8 (A) maximum densities, including the size of
9 lots;

10 (B) the height, number of stories, size, or
11 number of buildings or other structures that may be located on a lot
12 or tract;

13 (C) the location of buildings and other
14 structures on a lot or tract;

15 (D) the preparation of a plan for:

16 (i) utility development;

17 (ii) environmental effect and adaptation;

18 (iii) utility extension; and

19 (iv) capacity planning; and

20 (E) financial analysis provided for a plan
21 prepared under Paragraph (D); and

22 (2) adopting building codes to promote safe and
23 uniform building, plumbing, and electrical standards.

24 (b) If a tract of land is appraised as agricultural or
25 open-space land by the appraisal district, the commissioners court
26 or governing body may not regulate land development on that tract
27 under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or

1 (a)(2).

2 (c) The authority granted under this section does not
3 authorize the commissioners court or governing body to adopt an
4 order regulating commercial property that is uninhabitable.

5 (d) The authority granted under this section does not
6 authorize the commissioners court or governing body to adopt an
7 order that limits or otherwise impairs the rights of individuals or
8 entities in the exploration, development, or production of oil,
9 gas, or other minerals.

10 Sec. 242.053. BUILDING PERMITS. (a) The county or
11 municipality, as appropriate, shall issue a building permit if the
12 person submitting the application for the permit:

13 (1) files information relating to the location of the
14 residence;

15 (2) files the building plans for the residence; and

16 (3) complies with the applicable regulations relating
17 to the issuance of the permit.

18 (b) The county or municipality may charge a reasonable
19 building permit fee.

20 (c) The county or municipality shall deposit fees collected
21 under this section in an account in its general fund and dedicate
22 the fees to the building permit program. The funds in the account
23 may be used only for the purpose of administering the building
24 permit program.

25 Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
26 ORDER. If an order adopted by the county under this subchapter
27 conflicts with an ordinance of a municipality, the municipal

1 ordinance prevails within the municipality's jurisdiction to the
2 extent of the conflict.

3 Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority
4 granted by this subchapter does not affect the authority of the
5 commissioners court or governing body to adopt an order or
6 ordinance under other law.

7 Sec. 242.056. INJUNCTION. The county or municipality, in a
8 suit brought by the appropriate attorney representing the county or
9 municipality in the district court, is entitled to appropriate
10 injunctive relief to prevent the violation or threatened violation
11 of the entity's order or ordinance adopted under this subchapter
12 from continuing or occurring.

13 Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an
14 offense if the person violates a restriction or prohibition imposed
15 by an order or ordinance adopted under this subchapter. An offense
16 under this section is a Class C misdemeanor.

17 (b) It is an exception to the application of this section
18 that:

19 (1) the person is an owner-occupant of a residential
20 dwelling that is classified by the Texas Department of Housing and
21 Community Affairs as a low-income household;

22 (2) the dwelling was constructed before the effective
23 date of this subchapter;

24 (3) the violation related to a building standard or
25 building code for that dwelling; and

26 (4) the county or municipality, as appropriate:

27 (A) did not make available to the person a grant

1 or loan in an amount sufficient to cure the violation; or

2 (B) made available to the person a loan that was
3 sufficient to cure the violation but that caused the housing
4 expenses of the person to exceed 30 percent of the person's net
5 income.

6 SECTION 14. The heading to Chapter 242, Local Government
7 Code, is amended to read as follows:

8 CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE
9 SUBDIVISIONS AND PROPERTY DEVELOPMENT [~~IN AND OUTSIDE~~
10 ~~MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION~~]

11 SECTION 15. Chapter 242, Local Government Code, is amended
12 by designating Sections 242.001, 242.0015, and 242.002 as
13 Subchapter A and adding a heading for Subchapter A to read as
14 follows:

15 SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE
16 MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

17 SECTION 16. Subchapter B, Chapter 412, Local Government
18 Code, is amended by adding Section 412.017 to read as follows:

19 Sec. 412.017. WATER SUPPLY AND SEWAGE SYSTEM FOR CERTAIN
20 BORDER COUNTIES. (a) This section applies only to a county:

21 (1) that is located adjacent to an international
22 border; and

23 (2) in which a military installation is located.

24 (b) The commissioners court of a county to which this
25 section applies may acquire, construct, or operate a water supply
26 system or sewage system to serve:

27 (1) unincorporated areas of the county; and

1 (2) areas initially included in a municipality on or
2 after September 1, 2007, in which the municipality does not provide
3 water or sewer services.

4 (c) The county may enter a management or lease agreement
5 with another public or private entity for the operation of a county
6 water or sewage system acquired or constructed under this section.

7 (d) The county may apply for and receive grants or other
8 assistance from a state or federal governmental entity to implement
9 this section.

10 (e) The county may own, operate, or maintain a water or
11 sewer utility in the same manner as a municipality under Chapter
12 402.

13 (f) A county may not construct, operate, or maintain a water
14 supply system or sewage system in an area previously served by the
15 county's water supply or sewage system after the area is annexed by
16 a municipality and the municipality begins providing to the area
17 water or sewer services previously provided by the county.

18 SECTION 17. Section 16.344, Water Code, is amended by
19 adding Subsections (d), (e), (f), (g), (h), and (i) to read as
20 follows:

21 (d) Notwithstanding Section 16.343(g) or Section 16.350(a),
22 a political subdivision may temporarily continue to receive funds
23 under Subchapter K, Chapter 17, if the political subdivision
24 submits a request for temporary continuation of funding and the
25 board determines that:

26 (1) the political subdivision's initial funding
27 application and any amendments for a designated area were reviewed

1 and approved by the board before January 1, 2007;

2 (2) withholding funds would result in an undue
3 hardship for occupants of the property to be served by unreasonably
4 delaying the provision of adequate water or wastewater services;

5 (3) withholding funds would result in inefficient use
6 of local, state, or federal funds under the program;

7 (4) the political subdivision has committed to take
8 the necessary and appropriate actions to correct any deficiencies
9 in adoption or enforcement of the model rules within the time
10 designated by the board, but not later than the 90th day after the
11 date the board makes the determinations under this subsection;

12 (5) the political subdivision has sufficient
13 safeguards in place to prevent the proliferation of colonias; and

14 (6) during the 30 days after the date the board
15 receives a request under this subsection, the board, after
16 consulting with the attorney general, secretary of state, and
17 commission, has not received an objection from any of those
18 entities to the request for temporary continuation of funding.

19 (e) In applying Subsection (d) to applications for
20 increased financial assistance, the board shall only consider areas
21 that were included in the initial application, except that the
22 board may reconsider the eligibility of areas that were the subject
23 of a facility plan in the initial application and that may be
24 determined to be eligible based on criteria in effect September 1,
25 2005.

26 (f) The political subdivision shall take necessary and
27 appropriate actions to correct any deficiencies in its adoption and

1 enforcement of the model rules within the time period required by
2 the board, not to exceed the 90-day period described by Subsection
3 (d)(4), and provide evidence of compliance to the board. The board
4 shall discontinue funding unless the board makes a determination
5 based on the evidence provided that the political subdivision has
6 demonstrated sufficient compliance to continue funding.

7 (g) Except as provided by Subsections (d)-(f), if the board
8 determines that a county or city that is required to adopt and
9 enforce the model rules is not enforcing the model rules, the board
10 shall discontinue funding for all projects within the county or
11 city that are funded under Subchapter K, Chapter 17.

12 (h) The board may not accept or grant applications for
13 temporary funding under Subsection (d) after June 1, 2009.

14 (i) Subsections (d), (e), (f), (g), and (h) and this
15 subsection expire September 1, 2009.

16 SECTION 18. Section 232.029(f), Local Government Code, is
17 repealed.

18 SECTION 19. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 14, 2007

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3068** by Guillen (Relating to the authority and responsibilities of certain political subdivisions in relation to development.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend various chapters of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border. The bill would also amend Chapter 16 of the Water Code to permit the Texas Water Development Board (TWDB) to grant a request for temporary continuation of funding for a political subdivision that receives funds under Subchapter K, Chapter 17, Water Code (concerning the Economically Distressed Areas Program) if certain conditions are met. This provision expires on September 1, 2009.

The bill would authorize a county that includes territory located within 50 miles of an international border or certain municipalities within the county to regulate residential land development (for counties, in the unincorporated areas of the county and for municipalities, in the extraterritorial jurisdiction). Regulation authority would not apply if a tract of land is appraised as agricultural or open-space and would not apply to regulating commercial property that is uninhabitable. The county or municipality would be required to issue building permits for the applicable areas and would be authorized to charge a reasonable building permit fee. Fees collected would be deposited into the local government entity's general fund and could be used only for administering the building permit program. The act of violating land development restrictions imposed by a county or municipality in the applicable areas would be a Class C misdemeanor.

The TWDB anticipates that approximately three to five Economically Distressed Areas Program (EDAP) projects may be affected by the proposed changes to Chapter 16 of the Water Code. The agency expects that approximately 0.25 FTEs (Attorney IV) would be needed to carry out the work anticipated by the provision during the effective two year period for a total cost of approximately \$50,000 for the biennium. It is anticipated that this cost can be absorbed with existing agency resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board

LBB Staff: JOB, CL, ZS, JF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 13, 2007

TO: Honorable Eddie Lucio, Jr., Chair, Senate Committee on International Relations & Trade

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority and responsibilities of certain political subdivisions in relation to development.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend various chapters of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border. The bill would also amend Chapter 16 of the Water Code to permit the Texas Water Development Board (TWDB) to grant a request for temporary continuation of funding for a political subdivision that receives funds under Subchapter K, Chapter 17, Water Code (concerning the Economically Distressed Areas Program) if certain conditions are met. This provision expires on September 1, 2009.

The TWDB anticipates that approximately three to five Economically Distressed Areas Program (EDAP) projects may be affected by this provision. The agency expects that approximately 0.25 FTEs (Attorney IV) would be needed to carry out the work anticipated by the provision during the effective two year period for a total cost of approximately \$50,000 for the biennium. It is anticipated that this cost can be absorbed with existing agency resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 580 Water Development Board

LBB Staff: JOB, CL, ZS, JF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 17, 2007

TO: Honorable Tracy King, Chair, House Committee on Border & International Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority of certain municipalities and counties to regulate subdivision near an international border.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Chapters 212 and 232 of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, CL, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 28, 2007

TO: Honorable Tracy King, Chair, House Committee on Border & International Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3068 by Guillen (Relating to the authority of certain municipalities and counties to regulate subdivisions near an international border.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Chapters 212 and 232 of the Local Government Code regarding regulations of subdivisions and utility connections by municipalities and counties located in a county that is near an international border.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, CL, DB

H.B. No. 3068

By Guillen

A BILL TO BE ENTITLED
AN ACT

relating to the authority of certain municipalities and counties to regulate subdivisions near an international border.

MAR - 8 2007

Filed with the Chief Clerk

MAR 19 2007

Read first time and referred to Committee on Border and International Affairs

APR 16 2007

Reported favorably (~~as amended~~)
(as substituted)

APR 18 2007

Sent to Committee on (Calendars)
(~~Local Government~~)

~~MAY 02 2007~~

~~Read second time (comm. subst.) (amended); passed to third reading (~~failed~~) by a (non-record vote)
(record vote of ~~132~~ yeas, ~~2~~ nays, ~~2~~ present, not voting)~~

MAY 03 2007

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of 132 yeas, 2 nays, 2 present, not voting

MAY - 4 2007

Engrossed

MAY - 4 2007

Sent to Senate

Robert Haney
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

MAY 04 2007

Received from the House

INTERNATIONAL
RELATIONS & TRADE

MAY 08 2007

Read and referred to Committee on _____

Reported favorably _____

MAY 15 2007

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

MAY 22 2007

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

MAY 22 2007

Read second time, _____, and passed to third reading by unanimous consent
(a viva voce vote)
(_____ yeas, _____ nays)

MAY 22 2007

Senate and Constitutional 3 Day Rules suspended by a vote of 31 yeas, 0 nays

MAY 22 2007

Read third time, _____, and passed by a (viva voce vote)
(31 yeas, 0 nays)

Returned to the House

Patricia Spaw
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

MAY 22 2007

Returned from the Senate (as substituted)

(~~With amendments~~)

MAY 25 2007

House concurred in Senate amendments by a (non-record vote)

(record vote of _____ yeas, _____ nays, _____ present, not voting)

MAY 25 2007

House refused to concur in Senate amendments and requested the appointment of a conference committee by a (non-record vote) ~~(non-record vote)~~

House conferees appointed: Guillen, Chair; Howard of Fort Bend
Talton, Dena, Pierson

Senate granted House request. Senate conferees appointed: _____, Chair;

Conference committee report adopted (rejected) by the House by a (non-record vote)

(record vote of _____ yeas, _____ nays, _____ present, not voting)

Conference committee report adopted (rejected) by the Senate by a (viva voce vote)

(record vote of _____ yeas, _____ nays)

MAY 28 2007

Point of order overruled

MAY 28 2007

House fails to discharge conferees and concurs with Senate amendments by a record vote of 66 yea 73 nay 2 pr

07 MAY 22 PM 5:09

HOUSE OF REPRESENTATIVES

07 APR 18 AM 12:17

HOUSE OF REPRESENTATIVES